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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of time and eternity, You have presented us with the gift of another day. With wonderful fairness, You have given each of us the same number of hours and minutes. Forgive us when we abuse this gift by preoccupation with yesterday and anxiety about tomorrow. Remind us to tackle today's challenges and leave the past and the future to You.

Bless our Senators in their work. Give them understanding and courage to act on their convictions. When they are tempted to doubt, strengthen their faith. Order their lives by Your unfolding providence, and enable them to use the gift of time to work so that peace will reign in our world.

Bless our military and all who daily risk their lives for liberty. Sustain the families of these heroes and heroines and hasten the time of reunion. We pray this in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate returns to business today following the Memorial Day recess. I hope everyone had a safe and productive break.

Today, we will be in a period for morning business until 12:30 p.m., with the time equally divided between both sides of the aisle. At 12:30, we will recess until 2:15 p.m. for the weekly Republican policy luncheon. I understand the Democratic policy luncheon will occur tomorrow.

As a reminder, prior to the Memorial Day break, we tried to reach consent to begin consideration of the class action fairness bill. I reiterate that it has always been my hope we could finish the Defense authorization and the class action bill in a reasonable and timely way. Unfortunately, after spending a week on the Defense authorization bill we were still unable to reach an agreement for an amendment limitation.

In addition, there was an objection to proceeding to the class action fairness measure. A cloture vote is currently scheduled for 5:30 p.m. today on the motion to proceed to the class action bill. I hope it will not be necessary.

I will be talking with the Democratic leadership to see if we can find a way to finish the Defense authorization bill and begin the class action fairness bill without unnecessary delay.

We need to reach an agreement on how and when we will complete this important Defense authorization bill, and then we will begin the class action bill without the need for cloture.

I hope to announce shortly that we have reached an agreement for vitiating the 5:30 p.m. vote and that we will continue on the Defense bill with the expectation that Members will cooperate with the two managers to allow us to finish this Defense authorization bill.

I also should remind my colleagues that we will continue to work on judicial nominations as we proceed forward. I will be setting votes on those nominations each day. If we are able to vitiate the cloture vote today, we will schedule a vote on a judicial nomination today in its place as we will have a vote at 5:30 p.m. today.

Again, I will announce the voting schedule shortly.

Finally, we have 4 weeks during this legislative period. We have a lot to accomplish over that period of time. I hope we can use our time efficiently and get our work done.

DRUG DISCOUNT CARDS

Mr. FRIST. Mr. President, I also very briefly want to comment on the drug discount cards that are being made available and which take effect this month. This is June 1 and they take effect beginning today.

The discount cards, as my colleagues know, are a product of legislation signed by the President last December. The reality is that we have seniors today who are literally choosing between paying for their rent and paying for their food and obtaining prescription drugs.

One of the objectives set out in this piece of legislation and set out by the President of the United States was that we need to get help to those people who need help the most in terms of their prescription drugs. Thus, although this is a more comprehensive approach, affordable access to prescription drugs for seniors does not begin to take place for about a year and a half from now. I am delighted that just several months after passage of this bill and the signing into law by the President these prescription drug cards are available. They are available today, and they will have an impact today.

There are a couple of quick points that I would like to make: First of all, they are available to all Medicare enrollees who lack prescription drug coverage.

Second, the card itself will give a discount on average of about 17 percent. Seniors who do not have access through affordable access to prescription drugs can get these cards and on average get a discount of about 17 percent, which is a huge discount that can start literally today.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Third, and what I am most excited about, those seniors who really need it the most and who simply can't afford prescription drugs will get a value on this card in addition to the 17-percent discount of \$600 for the remainder of this year, and another \$600 for next year. Thus, over the next 18 months they will get \$1,200 in value, like a voucher, to purchase prescription drugs.

Again, that is a huge benefit for the millions of seniors who qualify for this low-income benefit as well. There are about 4 million low-income seniors whose incomes do not exceed the \$12,500 level for individuals and about the \$16,800 level for couples and who can have this direct and immediate benefit with this card.

I am very excited about the fact that these cards are available. They are available today. You can call the 800 Medicare number or go on the Medicare Web site to get more information.

With that, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until the hour of 12:30 p.m., with the time equally divided between the majority leader, or his designee, and the Democratic leader, or his designee.

Who seeks recognition?

The Senator from Colorado.

MEMORIAL DAY

Mr. ALLARD. Mr. President, my wife and I, during the Memorial Day break, had a wonderful, patriotic week. It is always good to get back to the regular schedule. We started out visiting Fort Carson just south of Colorado Springs, CO, and had an opportunity to welcome home the 3rd Armored Cavalry Regiment of Fort Carson, the Mountain Post.

Having done that, we met with a number of constituents after flying back to Washington, DC, to meet with hundreds of Coloradans who decided to come to Washington, DC, to celebrate the Memorial Day weekend here and to celebrate the opening of the World War II Memorial, which was a long time in coming.

It was a great time. My wife and I were both caught up in the enthusiasm of both generations—the current generation fighting for freedom and security in Iraq, and the past generation, the World War II generation who fought and literally changed the world because of their efforts, dedication, and heroism during World War II. We were caught up in the enthusiasm of the

World War II generation and found ourselves dancing to music of that era, having a wonderful time, meeting many wonderful Coloradans who were obviously excited about the fact they could come to Washington, DC, and celebrate the opening of the World War II Memorial.

THE 3RD ARMORED CAVALRY REGIMENT

I rise today to commend the 3rd Armored Cavalry Regiment for its long history of service to our Nation and for its more recent heroic accomplishments in Iraq.

Last week, I had the opportunity to attend a welcome home ceremony for the 3rd Armored Cavalry Regiment at Fort Carson, CO. Unlike most welcome home ceremonies, this one was steeped in tradition.

Few units in the U.S. Army can claim as distinguished history as the 3rd Armored Cavalry. And, even fewer have had so many of its soldiers awarded medals for valor on the battlefield.

The 3rd Armored Cavalry's service to our country did not begin in Iraq, or during World II. Indeed, not even in the past century. Rather, it began on May 19, 1846, by an Act of the 29th Congress of the United States. On that date, Congress authorized the creation of a regiment of mounted riflemen for the purpose of establishing military stations on the route to Oregon. Unbeknownst to Congress, this regiment would go far beyond this limited mission in its service to our country.

A year after its creation, in 1847, the 3rd Armored Cavalry Regiment, then called the Mounted Riflemen, was sent into battle in the Mexican-American War. Leading the assault on the fortress of Chapultepec, a key citadel outside Mexico City, Mounted Riflemen charged through heavy cannon fire to seize the castle and capture an enemy artillery battery.

Later in the war, the Mounted Riflemen were sent to capture another enemy artillery battery halfway to the Belen Gate outside Mexico City, and then on to capture a third battery in the assault on the gate itself. It was extraordinarily successful in all three assaults.

General Winfield Scott, the Commander of U.S. forces during the Mexican War, was so impressed with the bravery and toughness of the Mounted Riflemen that he gave this commendation:

Brave Rifles, veterans—you have been baptized in fire and blood and come out with steel. Where bloody work was to be done, "the Rifles" was the cry, and there they were. All speak of them in terms of praise and admiration. What can I say? What shall I say? Language cannot express my feelings of gratitude for your gallant conduct in this terrible conflict . . .

Due to the bravery of their service, 11 troopers were commissioned from the enlisted ranks and 19 officers received brevet promotions for gallantry in action.

At the time of the start of the Civil War, the First Regiment of Mounted

Riflemen was redesignated as the 3rd U.S. Cavalry Regiment. During the war, the 3rd Cavalry Regiment fought at the battle of Chattanooga, and in minor battles in New Mexico, Alabama, Tennessee, and Arkansas. During the campaign in New Mexico, the 3rd Cavalry Regiment fought alongside the 1st Colorado Infantry Regiment, and Colonel "Kit" Carson, who commanded the 1st New Mexico Infantry Regiment.

Following the Civil War, the 3rd Cavalry Regiment was sent to the American West to the fight in the Indian Wars. The experiences of the Indian Wars were traumatic and brutal for the troopers of the 3rd Cavalry Regiment, but they continued on. During the largest battle of the Indian Wars, the Regiment again distinguished itself. Four 3rd Cavalry troopers received the Medal of Honor for their heroism during the battle.

In 1898, the regiment's mettle was again tested in the Spanish-American War. The 3rd Cavalry regiment, along with five other regular U.S. Cavalry regiments, was given the nearly impossible mission of assaulting the hills surrounding San Juan in Cuba. In the dismounted attack, the 3rd Cavalry Regiment's U.S. Flag was the first to be raised on the point of victory.

With the turn of the century, armies began to turn to mechanized warfare. It was not until World War II, however, that the 3rd Cavalry Regiment was reorganized and redesignated as the 3rd Armored Group and sent to the European theater.

The troopers of the 3rd Cavalry group became the spearhead of General Patton's drive across German-held France. In fact, because this unit was everywhere and nowhere at the same time, it was nicknamed the "Ghosts" by the Germans. And, on November 17, 1944, the 3rd Cavalry Group became the first element of Patton's army to enter Germany.

At the war's end, the unit received high praise from its commanding general. General Patton commented with these words:

The 3rd Cavalry has lived up to the accolade bestowed upon it at Chapultepec by General Scott. As horse cavalry you were outstanding; I have never seen a better regiment. To your performance as mechanized cavalry, the same applies. It is a distinct honor to have commanded an army in which the 3rd Cavalry served.

During the Persian Gulf war in 1991, the 3rd Armored Cavalry Regiment again distinguished itself on the field of battle. On February 22, 1991, the Regiment led the U.S. forces across the Iraqi border. One hundred hours later, the regiment had moved over 300 kilometers north and left the remnants of three Iraqi Republican Guard divisions in its wake.

The purpose of reviewing the storied past of one of Army's most famed units is for each of us to understand just how important it was to these troopers that they live up to the unit's reputation in battle during Operation Iraqi Freedom.

Unlike past conflicts, Operation Iraqi Freedom was, for the 3rd Armored Cavalry, a battle of a different kind. It was for the hearts and minds of the Iraqi people. It was securing the peace and preventing terrorist attacks. It was for rebuilding a nation devastated by war, brutality, and corruption.

The regiment was responsible for controlling about a third of Iraq, including the hostile cities of Ramadi and Fallujah and Iraq's western borders with Saudi Arabia, Jordan, and Syria. Yet, the troopers performed their mission with excellence. They were determined in the face of opposition. They overcame unforeseen challenges. They worked as never before.

They also cared deeply about the Iraqi people. In one case, the regiment helped three rural villages in rebuilding their decimated communities. The troopers worked alongside families repaired and reconstructed facilities damaged and neglected for 30 years under the former regime. Schools, medical clinics and houses were rebuilt so that children could return to school and health care could be provided to all.

In other cities, troopers from the regiment helped build sewer and water projects, rebuild schools, and provide clothes, blankets, and food to needy adults and children.

These are only a few examples of the outstanding work these troopers did in Iraq. And, now, as these troopers reflect upon their service, they can say with pride that they accomplished their mission and made a difference in the lives of the Iraqi people.

However, their service did not come without a high cost.

PFC Armando Soriano joined the Army so that he could help his parents, who had immigrated to the United States in the 1980s. His goal was to save enough money to buy his parents and his four siblings a house.

Yet, it was his love for his comrades that made him stand out, and as a result, he became one of the best young soldiers in the 3rd Armored Cavalry. At 5 feet 6 inches, PFC Soriano weighed barely more than the 100-pound artillery shells he hefted as part of his job driving a 155 mm cannon through Iraq.

But that didn't stop him. He was faster than any of his comrades in lifting these huge shells.

He was known in the unit as a soldier who would do anything for his fellow troopers. He was always positive and kept everyone going despite the tough conditions. His fellow soldiers described him as "simply the best."

Sadly, PFC Armando Soriano died on February 2, 2004, in a truck accident in Iraq.

SP Brian Penisten, one of the unit's best mechanics, loved fishing, fixing cars and woodworking. He was a devoted family man with a 4-year old son. And, he was proud that he got to wear the uniform of the United States Army.

"He could make us look forward to doing our jobs every day," according to

one of his fellow soldiers. "He would be the one to make us shine and laugh and cry and everything else."

"He was always doing something to make things better," said another.

SP Brian Penisten was headed home for his wedding to his longtime girlfriend when his transport helicopter was shot down on November 2 by a guerrilla missile near the city of Fallujah.

He was buried on the day he was supposed to be married.

These are only two stories of the 49 soldiers from Colorado who have died while serving our Nation in Iraq. And, another 233 were wounded.

Despite the high cost, the 3rd Armored Cavalry Regiment embraced their mission and worked each and every day to better the lives of the Iraqi people.

Troopers like SFC Dean Lockhart have continued to demonstrate a devotion to the Army and our country despite the high price he has had to pay.

On July 23, Sergeant Lockhart was manning his Humvee machine gun when a roadside bomb demolished his Humvee. Shrapnel from the bomb pierced his back, shattering his pelvis and leg. After numerous surgeries and endless days of pain, Sergeant Lockhart is back in Colorado recovering from his injuries.

Despite the physical and psychological toll, Sergeant Lockhart has not given up. He still wants to spend 7 more years in the Army and he still believes in the U.S. mission in Iraq. He doesn't blame anyone for his injuries and has no regrets. If his unit was back in Iraq, he would return in a moment's notice.

Mr. President, I cannot begin to express to you and to the rest of my colleagues how thankful I am for the service these brave men and women from the 3rd Armored Cavalry have given to our country. Over 400 of these troopers earned medals of valor, including 200 Purple Hearts. They sacrificed much, but they never gave up. They accomplished their mission, fought with dignity and honor, and continued the heroic legacy of the 3rd Armored Cavalry.

Last week, I watched in amazement as the troopers of the 3rd Armored Cavalry Regiment were told that they had both literally and figuratively earned their spurs. Each of them are now allowed to wear those spurs in public in recognition of the unit's historic past and more, importantly, in appreciation for the unit's heroic service to our country in Iraq.

Mr. President, these are fine troopers who deserve our honor, our praise, and our admiration. I commend the 3rd Armored Cavalry Regiment for its service to our Nation, and I and the rest of the State of Colorado welcome them home.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that the time consumed during the previous quorum call be divided between the two sides; provided further that the time spent in additional quorum calls during this period of morning business be equally divided, as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD WAR II MEMORIAL

Mr. WARNER. Mr. President, I express a deep sense of gratitude to all those involved in this magnificent recognition of those who served in World War II, not only the 16 million men and women in uniform, but the homefront by ten times that number. Every American was involved.

This weekend was magnificent. I was privileged to have a very modest role in this event with Senator Dole and many others, joining in the feature of the weekend, the afternoon, 2 to approximately 3:30, when on The Mall over 150,000 individuals gathered to pay their respects to what is referred to as "the greatest generation" and hear from those who had taken a leading role, including Senator Dole, the American Battle Monuments Commission under the former commandant of the Marine Corps, Fred Smith, who was a key part of the team that raised the money, and, of course, we were fortunate the President of the United States came and addressed not only the crowd, not only our Nation, but addressed the world as a reminder of the human sacrifice all over the globe as a consequence of that struggle for the preservation of freedom.

Of course, we all remember the United States involvement started on December 7, 1941, with the attack on Pearl Harbor. Prior thereto, the Nazi armies had marched into Poland in late 1939, and the war in Europe was well underway. Then on September 2, 1945, the Japanese signed the official surrender aboard the Missouri in Tokyo Bay, and prior thereto, May 8 or 9, or a little later, the formal recognition of the surrender of the German forces.

So the great war to end all wars, as it was referred—as was also referred in World War I—had come to an end, with 16 million uniformed, over 400,000 of whom died, and triple that number bearing the wounds of that war.

It is interesting how this all started. On May 25, 1993, nearly 48 years after the end of the war, Public Law 103-32 was signed, authorizing the American Battle Monuments Commission to establish a World War II memorial in Washington, DC, or its environs to honor the spirit, sacrifice, and commitment of those people. And 11 years have followed after that fundraising, design, selection, and debate.

It is legitimate and important that we have voices on both sides express their views with regard to the utilization of the precious few acres between the Washington Monument and the Lincoln Memorial and, indeed, the Capitol on the other end.

Primarily under the leadership of Bob Dole and Fred Smith—Bob Dole, having been an extraordinary hero in the closing days of World War II, having suffered wounds in Italy in September of 1945 that required him to undergo many years of medical treatment and sheer mental determination to survive and to go on and provide America with his very distinguished career, including a seat he occupied as majority leader once in the Senate. The design by Friedrich St. Florian, Rhode Island architect, was chosen after reviewing approximately 400 design submissions, and Leo A. Daley, an internationally known architect who resides in Washington, DC, a very distinguished American, was selected to give overall management to the project.

I also acknowledge the name Carter Brown. He was at that time the foremost figure at the National Gallery of Art for many years as its director. He had a keen sense with regard to artistic matters. I remember calling him—I think others did, too—but prevailing him to enter the debate about the design of this memorial.

Some years before, I had again been a participant in the construction of the Vietnam Veterans Memorial, and it was a very strong and, at times, ferocious debate. In my office, as a U.S. Senator, right here in the Capitol, one time it erupted almost into fisticuffs over the design of the Vietnam Veterans Memorial. The debate on this memorial was equally serious, equally thoughtful on both sides, but, nevertheless, I have always believed that Carter Brown, through his strong hand and enormous respect, entered the fray and quelled the waters such that a design finally emerged. So we owe a debt of gratitude to so many.

Bob Dole and Fred Smith and others had raised more than \$195 million from the private sector, incidentally from more than 600,000 separate contributions; that is, from individuals, some of them for a dollar, some for many dollars, but that is an extraordinary number of individuals. I also recognize that every State in the Union, all 50 States and Puerto Rico, contributed \$1 for every citizen of that State who wore the uniform, male and female, in World War II. What a remarkable record of the breadth of participation across the land.

Some \$16 million was provided by the Federal Government, again not necessarily for the construction and design of the memorial, but really for a lot of the infrastructure that had to be put in place. I refer to the National Defense Authorization Act for Fiscal Year 2001. On October 30, 2000, we were able to find within the Armed Services authorization bill some \$6 million to be

transferred to the American Battle Monuments Commission. I will put into the RECORD the technical details of how we did that and the purpose for the funds, but basically it was for infrastructure. Congress had a modest hand, but I believe the important emphasis should be put on how the private sector came forward to make possible the construction.

As I reflect on this weekend and my opportunity to observe and walk among the many veterans who were gathered there on Saturday afternoon, on a fairly warm and intense day, and the joy in their hearts—and of the 16 million, I think, somewhere between 6 or 7 million, perhaps, are still on planet Earth. So many of their colleagues, therefore, who had passed on in that period of time and since that period of time were on their minds. But there was joy in everyone's heart. It was a coming together, to use the words of Bob Dole, paralleled, really, only by the World War II period when all of America was so united strongly behind the men and women of the Armed Forces. It was a magnificent reenactment, so to speak, of that cohesion that prevailed throughout America in that critical period from 1941 to late 1945.

Those of us who were privileged to be part of it—and I was just a young sailor at the tail end of the war in training command, but, nevertheless, I remember so well how America opened its arms to the veterans of that period and how this country perhaps made its best investment, for educational purposes, the best investment in the history of the Federal Government's participation in education, which was the GI bill, from which I benefited and many others.

I have often said, standing at this very spot on the Senate floor, that I would not have been privileged to serve in the Senate had it not been for the GI bill I received for modest service in World War II and then modest service again in the second period during the Korean conflict, with service in the Marines. I mention that only in the context of the value of the GI bill to those of us who received that gift of the American people. That is why I try to work hard today with many others, particularly those on the Armed Services Committee, to do what we can for this generation of young men and women who are in the Armed Forces and their families as a means of payback for what was done for previous generations. I am proud of the record of the Armed Services Committee over the many years I have been able to participate and serve on that committee.

I will come to the phrase momentarily. Bob Dole said it I think best of all when we chatted together quietly, and I think he also said it publicly in a number of interviews he found the time to give; and that is, perhaps it is time to pass on the baton of the "greatest generation" to this generation of young men and women who are

now serving in the Armed Forces of the United States because the Nation, I believe, is behind them. It is strongly behind them. There may be differences of view, honest differences of viewpoints about the war—should we have done it, should we not have done it—but we will save that debate for a later date and just look forward.

It was remarkable when we arose this morning, after a weekend of deliberations by many people in Iraq, the United Nations, Ambassador Bremer, and others, that we suddenly realize that the Iraqi Governing Council, which I think has done some very credible work in its short lifetime, has suddenly decided to dissolve, pick a President, a Prime Minister, some 20-odd ministers, and begin to lay the foundation for Iraq to govern itself. I personally am very heartened by these moves, widely reported in today's press.

But also in today's press again is the expression of many—I am not suggesting it is thoughtless, but, nevertheless, it is strongly in conflict with my own views—that we ought to establish a pullout date. Our President has steadfastly said we are going to remain until such time as the Iraqi people have enabled themselves to establish their government, hopefully to hold an election, before any dramatic withdrawal of the coalition forces in large numbers because that security system must be in place.

These are going to be critical, stressful, and difficult times after the transition on July 1. But we have to all remain steadfast in our conviction that we have to give this fledgling new Iraqi government a chance to put its roots into the ground and grow and gain strength and train their own force structure for the purposes of security.

But, nevertheless, as widely reported, a number of groups say, let's establish an arbitrary date—well, maybe not arbitrary but establish a date for pullout. To me, that would be a grave mistake. It would set a target, and targets are not a wise step in these types of situations, not at all. It is better that we go day by day, week by week, month by month, and gradually see how quickly the Iraqi government can constitute itself, establish its training programs, and eventually establish its own security forces. In the meantime, citizens of this country and other coalition nations have provided the funds for the refurbishment and, indeed, the modernization of their economic infrastructure.

So this must go forward, recognizing, again, that it is going to be a stressful and dangerous period because there are, regrettably, many engaged in open warfare to stop the evolution of a new and free Iraq.

Mr. President, I close with those remarks, saying only that I believe it was an opportune time for this memorial to be dedicated this weekend, to bring America together, to instill in

America a consciousness of the sacrifice that has preceded in our own Nation. Hopefully that measure of sacrifice can be extrapolated into the challenges that face America today and the sacrifice now of over 800 young men and women who have died in the conflicts in Afghanistan and Iraq, primarily Iraq, and the many more thousands who have been wounded. Yes, that does not compare, certainly by way of numbers, with the over 400,000 in World War II, but in my heart it compares. Every soldier counts. Every sailor, every airman, every marine counts.

It is not just the total number. To the family who bereaves the loss of their loved one, it is painful, irrespective of the total. It is a big total in my judgment, a significant total, a serious total and a serious loss to the country. Each us in this Chamber deeply grieves those losses.

Coming together this weekend, focusing on the sacrifices, on where our Nation is today as the leader of the free world, I hope will better enable Americans to understand the sacrifice of these young men and women, be they killed or wounded, and the hardships to the family. It is worth it because it is all part of a long, step-by-step trek toward not only achieving freedom for other nations but maintaining our freedom here at home, freedom against terrorism and other threats throughout the world.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent that I may speak for 5 or 6 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEASONAL WORK PERMITS

Mr. THOMAS. Mr. President, I want to take a minute this morning to talk about an issue that has been of some concern for us in Wyoming, as the Presiding Officer knows, for some time; yet we have not been able to move forward on it. It has to do with work permits that allow people to come and work for a seasonal time, for a relatively short time, in our case, generally, for the tourism around Yellowstone Park.

In that business, they have offered these jobs to anyone, of course, over the years, but they have been filled largely by people coming from other countries—mostly Mexico—for a fairly short period of time on what is called an H-2B visa. This is a category of visa that allows for seasonal and temporary nonagricultural workers to come. These workers are employed in all

kinds of industries that include fisheries, timber, hotels, restaurants, and others. Even ice skating shows have been talked about recently.

Businesses must file a petition with the State department of labor to certify that no local workers are available. They have always done that, of course. Workers are certified for a specific period of time. When that time has expired, they must return to their home country. I think this program has been in place for a good long time. I think it is one of the unique ones where there has been a record of returning.

One of the problems is—and this has come up as a problem, of course, in the last several months or a year—there has been a lot of conversation about illegal immigrants in this country, and properly so. There has been a great deal of conversation about outsourcing and paying less because you can get people to come from other places. Those things are true, but they are not applicable in this particular instance because, No. 1, these people are certified to be here. They go back when the time is over.

In the past, they have been able to come back on the same permit over a period of time. It has kind of worked that way. The wages have been reasonable wages paid in these particular areas. It is a fact and it is true that the jobs are not always the kind of jobs that a lot of young people want in our country. They are working in hotels and motels; nevertheless, they are jobs that are available and reasonably paid.

I think, though, because of the situation we have had and other kinds of problems with immigrants and illegals, this has become a more realistic issue than it would have been otherwise. This year, the number of H-2Bs was capped, and the number happened to be 66,000 per year. The fact is, this is really the first time that cap has been enforced. It is the first time people have ever thought in terms of a cap. Much of it had to do with the timing. People were talking, as our folks do in Jackson, about the summer season. They had not worried too much about doing this until the spring when they have traditionally done it; and it turns out that because of the cap, those numbers had been reached in other places. Therefore, it excluded the involvement of any more H-2Bs.

This is not an issue that is unique particularly to Wyoming. Other States, such as New Hampshire, Maine, Alaska, Virginia, Ohio, and North Carolina, have specifically spoken out as we have about the problem that exists in Wyoming.

Last year, they had petitions roughly for 1,800 workers in Wyoming. About 1,600 went, as I mentioned, to Jackson Hole. So we tried to find a solution to this situation because it seemed, more than anything, to be a question of timing. If we are going to have a limit, that is fine, but the limit ought to be known so that people, if they are going

to need workers in the summer, can make application at an appropriate time earlier in the year so that the timing is not an issue. That is the way it has been this year.

So for the last number of months, since we all heard about this—the first was in March before we even knew about the limit—the Senators and staff have been working to address this issue in a fair and consistent manner, to make good immigration policy. None of us are looking for illegal immigrants who are trying to extend illegal opportunities. This is a program that has been in place, has been useful, and has been legal. These are legal people who come and then they return, so the question of illegal immigration doesn't really fit in here.

So I need to make the point that this is something that we could proceed with. As a matter of fact, there have been opportunities in the Senate to move forward, and many suggestions that have been made are reasonable. I am trying to emphasize the fact that we need to move to do this and not simply write off the 2004 season. I will have to admit it is now very late and people are looking for other ways to fill these spots, and some of them can be, and that is fine.

I was in Wyoming this weekend at a place where they have similar seasons. They had set up a parking lot beside this motel where people could bring their trailers and their travel vehicles and stay there during the summer. These were older folks, pretty much retired, who wanted to work part time in the summer, and they would bring their trailer and stay. Some of the jobs can be filled that way, and they are. The fact is, businesses are going to be hurt if we don't do something. Certainly, we need to do that. There are some propositions that have been put forward on the Senate floor. We have had a couple folks objecting to them, so nothing has been done.

I think it is time. If people want to change the proposition, they can do that if they are comfortable with it. But we ought to move forward with the problem, which we can fix or require to be fixed or ask to be fixed, so that there is a reasonable opportunity for people to continue in the business of doing the same thing they have been doing, where now they are prohibited because of the timing proposition.

So I am hopeful we can continue to take a look at it. If it is too late for this year, I am sorry, but we ought to fix it now. But if we are not able to fix it this year, we will know what we are faced with for the next year. I understand the system in the Senate, but it is too bad when we have something that affects most people, and it can be held up and not allowed to even be discussed and moved forward. I think this is under the leadership of the Senator from Utah.

Mr. President, I wanted to share some thoughts on that issue instead of waiting and letting this continue to be

a problem in another season. Perhaps there is still time in some cases to be of assistance in this season. It is a plan and a program that has been in place and has worked over the years. We need to continue to allow people to participate in that plan.

I urge us to move forward and address the problem and make some kind of solution and not let it just die out and impact visitors, as well as employees and employers, in places such as Jackson, WY, and other places where people come for the summer.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. As a Senator from the State of Wyoming, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:27 p.m., recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Ohio, I observe that a quorum is not present.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES AIR FORCE ACADEMY

Mr. ALLARD. Mr. President, I rise today to report to you and our colleagues on the latest Board of Visitors meeting for the U.S. Air Force Academy.

Ordinarily, I don't do this, but in light of what has been happening for the last year and several months as far as the Air Force Academy, I feel compelled to give a report to the Senate to keep it updated on how matters are progressing at the Air Force Academy.

The Board of Visitors primary responsibility is advisory at the Academy. But in the process of monitoring the administration of the Academy and to be a voice for the students at the Academy, the Board of Visitors meets in mid-May at the Academy to review the activities of the Academy, assess current programs, discuss current disciplinary issues, and address proposed congressional legislation impacting the Academy and the Board of Visitors.

First, let me say I was pleased by the attendance and contribution of the board members and welcomed involvement of the board's newest members, including Senator MARK PRYOR. It is clearly apparent that the board is united in its purpose and serious about its responsibilities.

The meeting we had here was probably the best board meeting we have had since I have had the honor to serve on the Board of Visitors at the Air Force Academy.

Let me also say that Governor Gilmore continues to provide exceptional leadership and has done an excellent job of keeping the board on track and focused.

During the meeting, Air Force and Academy leaders briefed the board on several important issues. First, the board discussed the retention rates of the Academy graduates. Based on the statistics provided by the Air Force, it appears the Academy graduates have high retention rates, including in some professions rates of nearly 50 percent. Retention rates for Academy graduates continue to be higher than ROTC and OTS graduates.

Next, we discussed recent climate surveys. The Academy is wisely surveying faculty, civilian staff, and administrative staff, as well as the cadets. The Department of Inspector General also surveyed the cadet body in April. The result of the surveys is expected in July.

The Academy did share some preliminary results which include improvements regarding respect for women, the use of alcohol, and improved response to sexual assaults.

The new officer development program currently being implemented appears to be making a difference. Under this new system, cadets are taught leadership skills each year instead of just in their first years. This new system is consistent with that being used at the West Point and the Naval Academy.

Lastly, the board discussed three legislative proposals. I plan to work with the leadership on these proposals, perhaps as amendments, sometime during the deliberations on this bill. The first proposal would require the dean of the faculty for the Air Force to have some

prior military service. The second proposal would repeal the requirement that the Academy superintendent retire after serving the Academy. The Board of Visitors indicated its support for these two proposals.

The third proposal would have structured the Board of Visitors. At this time, this proposal requires additional work. I look forward to working with Chairman WARNER on refining that particular proposal.

I take a moment to compliment the superintendent of the Air Force Academy, Superintendent Rosa, and also his commandant, General Weida, who stepped in at a very difficult time at the Air Force Academy. They have shown exemplary leadership in working with the student body and charting out a new course for the Air Force Academy. It is a course that will allow oversight bodies, including members of the Armed Services Committee in both the House and the Senate, the Secretary of the Air Force, the President, and the members of the Board of Visitors, to review what is happening at the Academy. In other words, they have put a system in place that is much more accountable, which will make it easier for those who have the responsibility of oversight at the Air Force Academy to follow what is actually happening.

I thank the Congress for its concern about the welfare of the students at the Academy and for the opportunity to discuss the latest Board of Visitors meeting.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

HAITI

Mr. DEWINE. Mr. President, last week, my wife and I had the opportunity to spend 3 days in the troubled country of Haiti. I want to take a couple of minutes to report to my colleagues about the situation in Haiti. I believe it is particularly of importance because the United States still has troops in Haiti, and we had the opportunity to visit with a number of these wonderful young men and women.

Our trip coincided with the horrible flooding that occurred last week in Haiti and the Dominican Republic. In fact, I had the chance to fly out with our troops to a village in Haiti, Fonds Verettes, about 35 miles east of Port-au-Prince. I saw our troops doing a tremendous job to take food and water and shelter to the Haitians who had been devastated by this flooding.

Our trip was also timely because it is during this period of time that our troops are beginning to leave Haiti, or were scheduled to begin to leave Haiti,

and the U.N. troops are scheduled to start to come in. The country in this endeavor will be Brazil.

Let me make a few observations first, starting with the flooding. As I said, I went out to this village, Fonds Verettes. What I saw when I got there was just an absolutely unbelievable sight. I saw a village that was in ruins. I had the opportunity to talk to several of the victims. I talked to a man who told me he had lost four of his children. Absolutely unbelievable. He lost four of his children, and he was still in a state of shock and could barely talk above a whisper. It is hard to believe that someone could lose four kids. We talked also to a woman by the name of Luciani Joseph. She was just sitting on a box when we saw her. It was the only possession I think she had left in the world. We walked up to her and talked to her. She had lost her 6-year-old son. I know in that village there were dozens and dozens of other stories. Well over 100 people had lost their lives, and hundreds and hundreds of people lost every possession they had.

The only good news, I guess, is that U.S. troops were in the country. The only way you could reach this village was because U.S. troops were there. We had helicopters, and that is how they were able to reach the village because nobody could have reached the village any other way. I believe it is important that our troops stay in Haiti until enough food and goods and relief is delivered to these small villages that have been impacted by this flood. There is no other country that has the resources down there. Nobody has the airlift capabilities besides the United States.

Again, what an inspiration it was to talk to our young men and women who were assisting in this flood. The seriousness of the flood that hit Haiti is indicative to us and the international community as to the problems Haiti faces. We have all read, I believe, that Haiti is a country that is 97 to 98 percent deforested. This didn't come up overnight; it is something that has happened over the years. This deforestation has exacerbated the seriousness of the flooding.

I had the opportunity to talk to the village leader of this community I visited, Father Pierre Etienne Belneau. I said: Father, what happened? Have you had floods before? He said: Yes, but never as serious as this. Each time a flood comes, each time the water comes, it is more serious. He said: There is the reason. He pointed up to the hills, the mountains. He said: They keep cutting down the trees. As recently as just after President Aristide left, people—sometimes not even from our area—came up and went into the national forest and cut down more trees.

When the water comes, he says, it just goes right down the mountain; there is nothing to stop it. It washes everything down into their village. This priest in this rural village under-

stood what has happened to Haiti—that Haiti is an ecological disaster.

So as we and the international community look to help the new Government of Haiti, if we are serious about long-term help for Haiti and the people of Haiti, reforestation of this country has to be part of that help. A sustainable agriculture is essential to the assistance of Haiti.

One of the great problems we find in Haiti is malnourishment. My wife Fran and I held children in our arms in Haiti on this past trip and previous trips, some of whom could be saved and some of whom, tragically, were not going to live. They were simply not getting nutritious food. They were not getting protein.

There are children all over Haiti who are not well fed, who are not getting enough to eat, who are not getting enough nutritious food. This is due to the fact that this country, which at one time was the crown jewel of the French empire as far as food production, today cannot produce a fraction of the food for its own people.

If we are talking about long-term assistance, what the United States and other countries have to do is help them develop a sustainable agriculture. It is one thing to give them food—and we should do that—but in the long run, what we really need to do is help them help themselves through better agricultural practices.

Now I will turn to another issue that we talked about when we were in Haiti. I had the opportunity to meet with Prime Minister Latortue. We had a very good conversation. The day I arrived the United States had just announced an additional \$100 million in assistance for the new Government of Haiti. This money will assist this Government to survive.

I think it is so very important for the new Government to show results to the people. The people are looking for results. In the short term, they are looking to have the lights on. They only have the lights on in Port-au-Prince 2 hours a day. They need the lights on and the garbage picked up. The Government needs to show that people who commit serious crimes will be arrested, they will be held accountable, and they will be brought to justice.

In the long run, Haiti must have good judicial reform. The police must be trained. A new police force must be stood up. They must develop good land titling so that people will know the land they own is truly theirs. They will not have good international investment until people know that if they invest in property, invest in land, they will be able to sustain that investment.

Another issue that was talked about a lot while I was in Haiti—I was approached by many business people, many political leaders—was their support for a bill that I have introduced in the Senate and that has been introduced in the House of Representatives by Congressman CLAY SHAW, and that is the bill we call the Hero bill, a bill

that would give Haiti some trade preferences, a bill that would create tens of thousands of jobs in Haiti.

I cannot tell my colleagues how many people came up to me and said: Senator, please tell your colleagues we appreciate the aid, we appreciate the assistance, but if they really want to help Haiti and the Haitian people, what we need is jobs, and the way you can help us get jobs is to pass the bill that you have introduced. The Haitian people want to work. This bill will give us the opportunity to work.

Finally, if the new Haitian Government is to succeed, it can only succeed if there is security in the country. The U.S. Armed Forces who are in Haiti today will be phasing out over the next few weeks. They will be replaced by U.N. forces. It is imperative that the U.N. forces be at least as strong in their actions as the U.S. troops have been.

The U.N. troops will be tested. They will be tested by the thugs. They will be tested by the shamirs. They will be tested by Aristide's gangs. They will be tested by the rebels. In essence, they will be tested by both sides in what would have been a civil war. Let's keep in mind that the U.S. troops that came in and have done such a wonderful job for the last several months prevented a blood bath in Haiti. They prevented a civil war. The U.N. troops will have to be equally as strong, and when the U.S. forces leave and the U.N. troops come in, the U.N. troops will be tested.

The U.N. troops will have to be equally as strong, they will have to be tough, and they will have to fire back. If they do not, then Haiti will revert to chaos. So the next several months will be a very crucial time for these U.N. troops and a very crucial time for Haiti.

The one very good piece of news forthcoming during our trip was on the AIDS front. Haiti has been for some time a country that has had the highest incidence of AIDS. The good news is there have been doctors in Haiti who have been at the forefront in the battle against AIDS. Dr. Paul Farmer in the rural area and Dr. Bill Pape in Port-au-Prince have been at the forefront in the battle against AIDS, not just in Haiti but throughout the world.

We had the opportunity to meet with Dr. Pape on our most recent visit. He shared with me a statistic. The statistic is this: The incidence of AIDS in Haiti has now been cut in half. That is an astounding figure. It has been the result of some very aggressive work by a number of people.

I will come back to the Chamber sometime in the next few weeks to talk about this issue of AIDS in more detail because I think it is of such great importance. I think Haiti can be looked at as a model for the rest of the world as to how to dramatically cut the incidence of AIDS.

This poor country that certainly has not been governed very well in the last few years still managed in spite of that

to dramatically cut the incidence of AIDS. There is a lot to be learned from what has been going on in Haiti.

In addition to cutting the incidence of AIDS, we have also seen in Haiti the dramatic increase in the use of antiretroviral drugs.

So when my wife Fran and I walked into an orphanage run by the Sisters of Charity, whereas just a year ago none of the children who had AIDS were on antiretroviral drugs, this year when we came back and walked in we would see some of the children who were HIV positive, who were in need of drugs, who actually this time were on antiretroviral drugs.

We saw one little boy who we were told had come in just a few months before. He was very critically ill and he would have died but the sisters, because of Dr. Pape and because of good assistance coming in to Haiti, were able to get that child antiretroviral drugs and we saw a very healthy, chubby little boy running around this orphanage. Because of very good care from the nuns and because he has antiretroviral drugs, that boy is going to make it.

That is the type of miracle we are now beginning to see in Haiti, and I think it is something for which we can be very proud. That is what we want to see replicated around the world.

So when I come to the Senate floor and ask my colleagues to vote for more money for AIDS assistance around the world, it is that little boy I am going to be citing. It is this type of little boy who we can save around the world because if it can be done in a poor country such as Haiti, it can be done in other countries as well.

That is very good news coming out of Haiti from our last trip.

I yield the floor.

Mr. ALLARD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

ENERGY INDEPENDENCE

Mr. NELSON of Florida. Mr. President, I am quite troubled by what we have seen happen over the course of the weekend with the storming of the residential complex in or near Dhahran, Saudi Arabia, the eastern portion of Saudi Arabia, the oil-producing portion of Saudi Arabia. The storming of this residential complex and the taking of hostages at a residential complex that held people from many nations portends of what is to come. That is very troubling to the United States and the world community.

In today's paper, I see headlines such as "Saudis storm complex to free hos-

tages." It says, "Saudi leaders say the recent attacks won't affect the oil supplies." Then in another piece in the same newspaper, it says, "Latest terror attack increases the doubts about the ability of Saudi Arabia to pump more oil."

Is it not interesting that we as a world community, and especially as the United States, have to be concerned about the pumping of that Saudi oil in order to feed the voracious appetite we have for energy. Is it not interesting the United States had some painful lessons we learned in the early '70s, and again in the late '70s, when the oil cartel locked down limited production and almost brought the industrialized world to its knees, and we became so much more dependent, realizing we needed that foreign oil to feed our appetite; that as a Nation, we said we are not going through this anymore; we are going to head on a path for energy independence. Then we lulled ourselves back into the seductive price of cheap oil and continued allowing our voracious appetite to go unabated, with the result that even though we have tried all kinds of alternative measures, the fact is we are importing more than half of our daily oil consumption, and that figure is moving upward to 60 percent of our daily oil consumption.

Right off the bat, that tells you that is not a good position to be in when it comes to the defensive interests of this country. Think how much of a freer hand we would have, as we conceive and develop our defense plans for this country, if we and the free industrialized world didn't have to depend on that oil coming out of that gulf region. But we are dependent. So when we see an attack by al-Qaida directly on those oil interests, we better start examining further the need for us to set energy independence as a major policy of the U.S. Government.

We know that the United States is, in fact, al-Qaida's target, but there should be no doubt now that Saudi Arabia is also the target of al-Qaida. It is a target where al-Qaida has a better chance of success because it has the desired goal of overthrowing the Royal Family of Saudi Arabia.

Saudi society presented them with many opportunities: weak institutions, an alienated population, and nearby terrorist operating bases. Al-Qaida's strategy is becoming increasingly clear. What they are doing is stoking the dissatisfaction of Saudi citizens with their government and the Royal Family by demonstrating the Royal Family's weakness by conducting their al-Qaida attacks in Saudi Arabia.

The attacks this past weekend indicate where they are now headed: to cut off Saudi Arabia's lifeline by destroying their oil facilities and diminishing their oil-producing capability. It is a strategy that has some chance of success. If the attack that happened this past weekend had interrupted the flow of Saudi oil, then the Saudi Royal

Family would, indeed, have some cause for concern that they could stay in power because overnight they would lose the one tool they have to keep some of the popular discontent in their country under wraps, and that is oil money.

The Saudi rulers have not helped matters over the years by ignoring the obvious, which is the threat to their own self-interest posed by Islamic extremists. Why? Because the Saudi Royal Family has played footsie for far too long with the radicals, thinking they could buy them off and paying money to the extremist religious schools, called madrasas, hoping that Saudi money, spread around the Muslim world where the most extreme ideology and hatred is taught, was going to buy them peace. But I think the Saudi Royal Family is beginning to wake up.

The United States has tried to be Saudi Arabia's defender. We had thousands of troops based over there in the 1990s. Clearly, when Saddam Hussein in the early nineties moved on Kuwait and it was very clear that he was intent on moving into Saudi Arabia, the United States responded. But Saudi Arabia did not like us having troops on their land. We did not particularly want to be there because we were the constant source of attack, such as the Khobar Towers bombing which took 19 American lives.

The United States could not build a defensive wall around Saudi Arabia to protect them—now especially that is so—even if we wanted to, which we don't, but that is especially so because many of the threats now come right from within Saudi Arabia itself. So all we can do is impress upon Saudi Arabia the need for reform in their society as quickly as they can to isolate the extremists, to institute democratic institutions, and to diversify their economy. But those prospects are not good because if the Saudi Royal Family were to fall and if it is succeeded by an Islamic radical regime, then I fear for the rest of the Middle East and the gulf region that we would see a risk of those regimes falling like dominos. With a radical Saudi successor regime in control of all that oil, one can imagine the damage it could do by holding the West hostage economically.

That is what we are facing. Sometimes we get lost in seeing the entire forest for the particular trees, but I think we need to pull back and see that this threat of radical terrorists is now being directed not only at us in the homeland, but it is being directed at a source of energy upon which the western industrialized world has become dependent. If the attacks we have seen just a few days ago do not convince us to curtail our addiction to oil, then I do not know what will.

Why don't we do some reasonable things? I remember the junior Senator from Massachusetts offering an amendment to do something real simple, such as lower the miles per gallon for SUVs,

and we got beat and beat badly. That is an easy one to do, not even to speak of shifting to alternative sources of energy, not even to speak of additional conservation efforts, not even to speak of production efforts where it is not going to harm the fragile environment where, indeed, there are the reserves, not even to speak of using our technology in a crash course such as we did when we went to the Moon in the Apollo project. We set a goal and we said we were going to achieve it. We marshaled the resources, we marshaled the will, we got the support of the American people, and within 9 years we were able to go to the Moon and return safely. And so, too, we need an Apollo-type project for energy independence to wean ourselves from that dependence on foreign oil.

We need to invest massive manpower and effort into developing alternative energy sources so that the possible collapse of unstable oil regimes in the Middle East will not hold us hostage. Lord knows, let's hope that does not happen, but we need to wake up and see the insatiable appetite we have for that foreign oil.

I believe energy independence is one of the top priorities for protecting U.S. national security. There are a lot of Senators who support that goal and yet we allow ourselves to be beat time and time again by certain special interests and lobbies that have their own interests at the forefront instead of the national interest.

The events of this past weekend make the need for energy independence a national priority. These events make it clearer than ever.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FRIST. Madam President, I have discussed the upcoming schedule with the Democratic leader. We currently have a cloture vote scheduled for 5:30 today on the motion to proceed to the class action fairness bill. In a moment, I will ask unanimous consent to vitiate that cloture vote.

As I mentioned earlier this morning, it has been our hope to finish both the Defense authorization bill and the class action legislation in a timely way. To expedite completion of the Defense authorization bill, we will need to limit amendments so the managers of the bill can begin to schedule amendments accordingly.

In addition, we would like to reach an agreement to begin the class action bill immediately upon the conclusion

of the Defense authorization with no need for the motion to proceed. Having said that, I am prepared to ask unanimous consent but will withhold for any comment.

I now ask unanimous consent that the 5:30 cloture vote be vitiated and that the Senate begin consideration of S. 2062, the class action fairness bill, at the conclusion of the pending Defense authorization bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Madam President, I further ask unanimous consent that at 5:20 today the Senate proceed to executive session for the consideration of calendar No. 558, the nomination of F. Dennis Saylor, IV, to be U.S. District Judge for the District of Massachusetts; provided further that be there 10 minutes equally divided for debate prior to the vote on the confirmation of the nomination with no intervening action or debate.

Finally, I ask unanimous consent that following the vote the President be immediately notified of the Senate's action and the Senate then resume legislation session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Madam President, I now ask unanimous consent that the only remaining first-degree amendments in order to the pending Department of Defense bill be limited to the list I have sent to the desk. I further ask unanimous consent that these amendments be subject to relevant second degrees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The list is as follows:

Akaka—National Security Education, Akaka—Smart Scholarship, Alexander—Federal Assistance No. 3173, Allard—Air Force Academy, Allard—Air Force Academy, Allard—Missile Defense, Allard—Rocky Mountain Arsenal, Bayh—Advanced Manufacturing Tech., Bayh—Iraq Reporting Requirements, BAYH—Missile Defense, Bennett—Mercury Storage, Bennett—Nuclear Testing, Bennett—UT Test and Training Range, Biden—Adjust Tax Cut to pay for War, Biden—Information Operations.

Biden—Preventing Identity Theft, Biden—Relevant, Biden—Relevant, Bingaman—EEG, Bingaman—HSI Definition, Bingaman—Non-Proliferation, Bingaman—Nuclear Weapon, Bingaman—Report, Bingaman—Science Technology, Bingaman—Vaccine Health Care Center, Bond—Military Voting, Bond—Nuclear Energy Workers, Bond—Relevant, Bond—Relevant, Bond—Relevant.

Boxer—Lengthy Deployment Pay, Boxer—Missile Defense, Boxer—Rape of Women Service Members, Boxer—Relevant, Brownback—FCC Decency, BROWNBACK—S.O.S. re: Air Force No. 3232, Brownback—Taiwan No. 3222, Byrd—Industrial Commission, Byrd—Relevant, Byrd—Relevant, Byrd—Use of Force, Campbell—Korean Medals, Cantwell—Capehart, Cantwell—Extend Unemployment Compensation, Cantwell—Former Dept. Of Energy Medical Screening.

Cantwell—Global Poverty Study, Cantwell—High Level Radioactive Waste, Cantwell—High-Level Waste, Chafee—Berry Amendment No. 3177, Chambliss—Retired

Pay No. 3223, Clinton—Commissaries and Schools, Clinton—Medical Tracking and Readiness (filed), Collins—Energy Savings Plan No. 3230, Collins—OMB Circular A-76 No. 3224, Collins—Outsourcing, Collins—Pilot Fees, Conrad—Relevant, Conrad—Relevant, Corzine—Relevant, Corzine—Relevant.

Corzine—Reservist Retirement, Corzine—Sovereignty, Craig—Immigration, Daschle—B-1, Daschle—Flesh Eating Parasites, Daschle—Military Reservist AG Loan Obligation, Daschle—Relevant, Daschle—Relevant to the List, Daschle—TRI CARE, Daschle—VA Health Care, Dayton—Buy American, Dayton—Operational Cost Reporting, Dodd—Federal Law Enforcement Officers, Dodd—Firefighters, Dodd—Health and Safety Equipment.

Dodd—Military Offset Contracts, Dodd—Private Military Firms, Domenici—Joint Study Center No. 3168, Domenici—Training Flights No. 3167, Dorgan—Oversight (with Wyden), Dorgan—Radio/TV Marti, Dorgan—Relevant, Dorgan—Relevant, Durbin—Dietary Supplement, Durbin—Reservists Pay, Durbin—Small Business Set Asides, Durbin—Treatment of Prisoners, Durbin—Treatment of Prisoners, Ensign—Oil for Food, Ensign—Relevant.

Enzi—Air Tankers, Feingold—FMLA Benefits, Feingold—Inspector General's Office, Feingold—Relevant, Feingold—Transition Services for Military, Feinstein—Afghanistan Anti-drug Effort, Feinstein—SoS re: Perchlorate, Fitzgerald—Veterans Health, Frist—Relevant to any on list, Frist—Relevant to any on list, Frist—Relevant to any on list, Frist—Relevant to any on list, Graham (Florida)—Haitian Refugee Immigration Improvement Act, Graham (Florida)—Night-Vision Goggles Training.

Graham (Florida)—NSA Recruiting Program, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (South Carolina)—CIPC, Graham (South Carolina)—DOE, Graham (South Carolina)—Independency of Judiciary, Graham (South Carolina)—Relevant, Graham (South Carolina)—TRICARE, Grassley—Army Industrial Facilities No. 3153, Grassley—Counter Drug in Afghanistan.

Hagel—Increasing Troop Strength, Harkin—Armed forces media, Harkin—Code talkers, Harkin—Energy employees compensation cohort, Hollings—Land Conveyance, Hollings—Relevant, Inhofe—Foreign Military and Security Forces No. 3200, Inhofe—Iraq and Afghanistan Funding No. 3198, Inhofe—Relevant, Inhofe—Relevant, Inhofe—Relevant, Inhofe—USO Procurement No. 3199, Johnson—Hazardous Duty Pay, Kennedy—AG Jobs, Kennedy—Beryllium Screening for Worker Health and Safety.

Kennedy—Civilization of JAG Functions, Kennedy—Federal Employees, Kennedy—Impact Aid, Kennedy—Increase in "One Source" Funding for Military Families, Kennedy—Iraq Policy, Kennedy—Iraqi Prisoner Abuse, Kennedy—Nuclear Weapons (with Feinstein), Kennedy—Relevant, Kennedy—Relevant, Kennedy—Relevant, Kennedy—Return of Military Remains, Kennedy—Russian American Observation Satellite, Landrieu—Land Conveyance, Landrieu—Preseparation Counseling, Landrieu—Survivor Benefit Plan (filed).

Lautenberg—Reimbursement for Medicare VNR's, Lautenberg—Relevant, Lautenberg—Special counsel on No-Bid Iraq Oil Contracts, Leahy—Civilian Assistance, Leahy—Data Mining Protection, Leahy—National Guard Title 32, Leahy—Relevant, Leahy—War Time Profiteering, Levin—Iraqi Lessons, Levin—Managers' Amendments, Levin—Relevant,

Levin—Relevant, Levin—Relevant, Levin—Relevant to the list, Levin—Relevant to the list.

Levin—Supplemental Authorization, Lieberman—Relevant, Lieberman—Relevant, Lott—BRAC No. 3220, Lott—RDT&E for Advanced Ferrite Antenna No. 3179, Lott—S.O.S. re: Shipbuilding No. 3233, Lott—Search and Rescue No. 3221, McCain—2nd Degree Buy America, McCain—2nd Degree Buy America, McCain—GAO Study, McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Relevant.

McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Service Academy Professors No. 3229, McCain—TRICARE, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, Mikulski—Presidential Helicopter Support Facility, Miller—Retired Warrant Officers, Murkowski—AK Natural Gas Pipelines, Murray—Benefit Improvement Guard and Reserves.

Murray—Child care Assistance Reserve Units, Murray—Overseas Facilities Restrictions, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Nebraska)—DePSCOR, Pryor—Sacrifice, Reed—Military Academy, Reed—Military contractors in Iraq Oversight, Reed—Military Housing, Reed—National Missile Defense Accountability, Reed—National Missile Defense Accountability, Reed—Relevant.

Reed—Relevant, Reed—Tax Compliance by DoD Oversight, Reed—Troop Strength Increase, Reid—Concurrent Receipt, Reid—Relevant, Reid—Relevant, Reid—Relevant, Reid—Relevant to the list, Reid—Relevant to the list, Santorum—Exchange and Sell, Sarbanes—Federal Charter Korean War, Sarbanes—Sense of the Senate Housing Privatization (Mikulski), Sarbanes—VXX Pax River, Schumer—Relevant.

Schumer—Relevant, Schumer—Relevant, Schumer—Relevant, Sessions—Relevant to list, Sessions—Relevant to list, Smith—Hate Crimes No. 3183, Sununu—William Billy Mitchell No. 3156, Talent—Hero Miles Act, Talent—Military Readiness, Talent—S.O.S. re: WWI Museum, Warner—Contingent Reserve Fund, Warner—Managers' Amendments, Warner—Relevant to any on list, Warner—Relevant to any on list.

Warner—Relevant to any on list, Warner—Relevant to any on list, Warner—Relevant to any on list, Wyden—Iraqi Oversight Contracts, and Wyden—Oil.

Mr. FRIST. Madam President, the amendment list I sent to the desk is a large amendment list. Some of the amendments on the list do not have anything to do with the Defense authorization. I want to make it clear that I don't believe many of the amendments are appropriate to the Defense bill. This is indeed true on both sides, both the lists submitted from this side of the aisle and on the other side of the aisle.

We are locking in this list so we don't find ourselves with twice as many amendments if we wait until later tonight or tomorrow.

Having said that, we have a limited universe of amendments. We have not agreed to consider each and every one of the amendments, but we do have this limited universe. There is no reason, I believe, that we should not be able to finish the bill either late this week or early next week.

I hope the Democratic leader agrees and will work with us to ensure the bill is completed in a reasonable time next week.

All of this agreement has been reached through conversations with the Democratic leadership and the managers on both sides of the aisle.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I share the view expressed by the majority leader. He and I have had conversations about the scheduling. I think it is the right decision. We made some progress on the bill before the recess.

I think the excellent manager relationship we have on both sides of the aisle with regard to this particular bill will serve us well as we work through amendments. There are a lot of place holders. There are a lot of amendments where Senators simply wanted to be protected, and we respect that. But as we do with the number of bills, we will work with our managers to constructively come up with a more manageable and practical list as the next day or so unfolds. I think we can complete our work in a timely way.

As I have indicated to the majority leader, it is not our desire to oppose going to the class action bill once the work on the DOD bill has been completed. We will have a good number of amendments on that bill as well. But this sequence makes the most sense given our circumstances right now. We need to finish our work on the DOD bill given our circumstances in Iraq in particular, and I think this schedule will accommodate that need. I think we are where we need to be at this point.

I will continue to work with both of our managers to see that we finish our work on this bill as we expected we would prior to the recess.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I wish to express my appreciation to both leaders. Senator LEVIN and I have handled this bill for many years. This list is not unlike what we have had before.

The Senate will work its will. I know some Senators think perhaps their amendments should have been on the list. But I have experienced cooperation on my side to not have several amendments on the list; I expect my colleague from Michigan did likewise; the Senate is anxious to have a lot of issues addressed. But this is a very key piece of legislation which is a must on behalf of the men and women of the Armed Forces.

I thank the leadership.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, it is important we were able to work out the arrangements we have made to go to this most important Defense authorization bill. As Senator DASCHLE mentioned, the two managers are experienced; they have dealt with these issues for many years. This is the time to work on the Defense authorization bill, not some side issue that, important as it might be, does not compare to the importance of this Defense bill.

We had five soldiers killed yesterday in Iraq. During the months of April and May, we averaged two soldiers a day being killed. Now over 800 have been killed in Iraq. We are approaching 5,000 who have been wounded, some of whom have lost legs, eyes, and are paralyzed.

I cannot imagine we would move off this piece of legislation. It is important Members of the Senate have the opportunity to offer their views on what should be done or what should not be done with this Defense authorization bill. There are going to be a number of amendments, but this is nothing new. Even when we do not have two soldiers killed every day, we spend a lot of time on this bill. With 120 of our men and women having been killed in 60 days, they and those people who are now over there in the trenches, so to speak, deserve our full time and attention on this most important piece of legislation.

I am glad we are now able to work on this bill and not set it aside and come back at a subsequent time. We were beginning to have some momentum when there was a decision made to pull off the bill. There are amendments that will take a little bit of time, but I don't think we should worry about that. When we get to class action, we will get to class action. When we finish this bill, it will be for the good of the country, especially if there has been a full debate.

I have just returned from home, as have the other 99 Senators. There is not a single issue that we should be dealing with other than our military forces, based on the conversations I had with people at home. Whether it is talk radio, town hall meetings, or campaign events, the No. 1 issue is Iraq. We in the Senate cannot hide our heads in the sand and pretend it is not important; it is.

I look forward to the management of this legislation by our two fine committee leaders, Senator WARNER and Senator LEVIN. When the process is finished, we will truly have a bill that represents the wishes of the American people—or at least that is the way it should be.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF F. DENNIS SAYLOR, IV

Mr. KENNEDY. Madam President, I welcome the action of the leadership in taking up the nomination of Dennis Saylor to the United States District Court for the District of Massachusetts. I urge the Senate to confirm him.

Mr. Saylor has received impressive support from a broad spectrum of leaders of the bar. They are confident of his ability, his good judgment, and his fairness. I am confident he will be a distinguished member of the court.

Mr. Saylor has past experience in the executive branch. I am confident he understands the importance of the independence of the judicial branch.

He is currently a partner at the highly respected law firm of Goodwin Procter in Boston, where he joined as an associate after graduating from Harvard Law School in 1981. He later served as an assistant U.S. attorney in Boston. From 1990 to 1993, he served as the chief of staff of the Assistant Attorney General, Robert Mueller, in the criminal division of the Department of Justice, providing litigation and policy advice, and served as a liaison with Congress and outside organizations.

He returned to Goodwin Procter as a partner in the litigation department and currently specializes in white-collar criminal defense cases and other complex legal issues involving individuals and corporations.

His impressive background, legal expertise, and experience make him well qualified for this position and inspire confidence that he will be a judge in which Massachusetts will take pride.

The Federal district supreme court in Massachusetts is one of the most efficient and effective district courts in the country, and its judges are highly regarded and respected. It dispenses justice fairly and takes seriously its role as part of an independent branch of our government. I am sure Mr. Saylor will contribute to the distinguished work of this court. I urge the Senate to approve his nomination.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF F. DENNIS SAYLOR IV TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

The PRESIDING OFFICER. Under the previous order, the Senate will now

go into executive session and proceed to the nomination of F. Dennis Saylor IV, of Massachusetts, which the clerk will report.

The journal clerk read the nomination of F. Dennis Saylor IV, of Massachusetts, to be U.S. District Judge for the District of Massachusetts.

Mr. HATCH. Mr. President, I am pleased to speak in support of F. Dennis Saylor, nominated to the United States District Court for the District of Massachusetts.

Mr. Saylor is a highly regarded litigator with a history of public service. Upon graduating from Harvard Law School, Mr. Saylor joined the law firm of Goodwin Procter where he worked for several years before joining the United States Attorney's Office for the District of Massachusetts.

He left his Assistant U.S. Attorney position in 1990 to serve as the Special Counsel and Chief of Staff to the Assistant Attorney General here in Washington, D.C. In 1993, Mr. Saylor re-joined Goodwin Procter as a partner where he remains to this day.

This highly respected attorney has focused much of his professional career on criminal matters, however—as his record illustrates—he has distinguished himself on the civil side as well.

Mr. Saylor will bring 20 years of legal experience and sharp acumen to the Federal bench. I urge my colleagues to join me in supporting his nomination.

Mr. LEAHY. Mr. President, today, we vote to confirm another district court nominee of President Bush, Frank Dennis Saylor, IV, to the U.S. District Court for the District of Massachusetts. Mr. Saylor is a partner at the firm of Procter Goodwin. He is supported by both of his home-State Senators, who deserve much credit for his confirmation today.

Today's confirmation will make the 77th judge confirmed this Congress and the 177th judicial nominee named by this President to be confirmed by the Senate. We confirmed 100 in the 17 months that Democrats led the Senate. We are now confirming the 77th in the other 24 months that have transpired during this most divisive presidency.

With 77 judicial confirmations this Congress, the Senate has confirmed more Federal judges than were confirmed during the entire 2 years of 1995 and 1996, when Republicans controlled the Senate and President Clinton was in the White House. It also exceeds the two-year total for the last 2 years of the Clinton administration in 1999 and 2000, when Republicans controlled the Senate. So, we have exceeded the totals for the last two Congresses leading up to presidential elections.

With 177 total confirmations for President Bush in 3½ years, the Senate has confirmed more lifetime judicial appointees of this President than were allowed to be confirmed in President Clinton's entire term from 1997 through 2000. We have already surpassed the number of judicial confirmations during President Reagan's entire term

from 1981 through 1984, and he is acknowledged to have appointed more Federal judges than any other President in our history.

Democratic support for the confirmation of Mr. Saylor, an active Republican who was championed by Republican Governor Mitt Romney for the bench, is yet another example of our extraordinary cooperation. Mr. Saylor's Republican credentials are not in doubt—he was even on some short lists for Bush Administration Executive Branch positions. We take into account his experience and his career as a litigator who has served as both a Federal prosecutor and a defender of those accused of crimes.

I congratulate Mr. Saylor, his wife, Catherine Adams Fiske, who is an attorney with the Environment and Natural Resources Division of the Department of Justice, and their family on his confirmation today.

While this confirmation is another demonstration of good faith and cooperation by Democratic Senators, we, again, see partisan Republicans seeking confrontation. Last week, the President used his recess appointment powers to place Republicans on what should be bipartisan boards and commissions. A good example is the U.S. Parole Commission. While Isaac Fullwood's nomination is being bottled up by Republicans, the President proceeds to recess appoint Deborah Spagnoli. In addition, the President has yet to follow through on Democratic recommendations to long-standing vacancies on the U.S. Sentencing Commission. This week Republicans on the Judiciary Committee will end the short-lived cooperation on judicial nominations and force votes and hearings on controversial nominees, apparently in response to pressure from the right wing of the Republican Party. Republicans are insisting that the Committee break with tradition and proceed on judicial nominees opposed by home-state Senators.

Thus, while this nomination marks historic progress in Democratic Senators' cooperation with the White House, partisan Republicans refuse to take yes for an answer and insist on ignoring the progress that we have made. We have treated President Bush's judicial nominees far more fairly than Republicans treated President Clinton's. Still, no good deed we do goes unpunished.

Mr. LEVIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of F. Dennis Saylor IV, of Massachusetts, to be U.S. District Judge for the District of Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Kentucky (Mr.

BUNNING), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote "yea".

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that if present and voting the Senator from Iowa (Mr. HARKIN) would vote "yea".

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 104 Ex.]

YEAS—89

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (SC)	Reed
Brownback	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Cantwell	Hatch	Santorum
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Leahy	Thomas
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden
Dodd	Lott	

NOT VOTING—11

Baucus	Edwards	Lautenberg
Bunning	Graham (FL)	Murkowski
Campbell	Harkin	Sarbanes
Corzine	Kerry	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. HARKIN. Mr. President, I regret that I was necessarily absent for the vote on the nomination of Dennis Saylor to the District Court for the District of Massachusetts. Had I been present I would have voted "yea" to confirm Mr. Saylor.●

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent we proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

LANCE CORPORAL KYLE W. CODNER

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Kyle W. Codner of Shelton, NE, a lance corporal in the U.S. Marine Corps. Corporal Codner was killed on May 26, 2004, in the Anbar province in Iraq while performing security and stability operations. He was 19 years old. CPL Matthew Henderson of Lincoln, NE, a good friend of Codner, was killed in the same explosion.

Corporal Codner grew up on a farm east of Shelton, NE, and graduated from Shelton High School in 2003. He joined the U.S. Marine Corps in June 2003, and was deployed to Iraq in February of this year. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, 1st Marine Expeditionary Force at Camp Pendleton, CA. Codner was one of thousands of brave American service men and women serving in Iraq.

Corporal Codner is survived by his parents, Dixie and Wain Codner of Shelton; sister, Melissa; and fiancée, Megan Kirkover. Our thoughts and prayers are with them at this difficult time. America is proud of Kyle W. Codner's service and mourns his loss.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Lance Corporal Codner.

HESLEY BOX, JR.

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to a brave Arkansan who gave his life in the defense of his Nation. SSG Hesley Box, Jr., 24, of Nashville, AR, died on May 6, 2004, in Baghdad, Iraq, in support of Operation Iraqi Freedom. Staff Sergeant Box died when a car bomb detonated near his guard post.

Hesley, or "Tanky" as his family called him, joined the Guard in 1997. He was just 24 years old when he left for Iraq in March with the 39th Infantry Brigade. Even though he was a young soldier, Hesley was already a veteran of two other deployments in Bosnia and Saudi Arabia.

Our condolences and prayers go out to Hesley's wife, Alexia; his two sons

Zacheas and TaDarius; his parents, Hesley, Sr., and Barbie Box, and his brother, Tarcus Kyron Box.

Hesley's wife Alexia recounted the impact he had on peoples' lives and the love he showed for their children. The Nation will long remember the impact this brave Arkansan has had on the safety and security of all Americans. I am honored to pay tribute to his sacrifice.

TROY MIRANDA

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to one of Arkansas' finest who gave his life in the defense of his nation. SSG Troy "Leon" Miranda, 44, of Little Rock died on May 20, 2004, in Baghdad, Iraq, when a grenade was thrown near his patrol.

According to his mother Bobby, Troy graduated from Wickes High School and went on to study business at Henderson State University. He joined the Army National Guard almost 20 years ago and was assigned to the Guard's counterdrug program. For the last 10 years he worked with the Arkansas State Police in the criminal investigation division's office of investigative support.

Leon showed the kind of heroism that makes all Arkansans proud. He lost his life protecting other men in his unit. He has been awarded the Bronze Star and Purple Heart. The Associated Press reported that Troy's brother, Phillip Miranda, also stationed with the 39th in Iraq, would accompany his brother's body home to Arkansas.

Our condolences and prayers go out to Troy's parents, Carlos and Bobby Miranda, and to his siblings.

Troy's sister-in-law said of him that, "He was the bravest person I knew." We honor the spirit of bravery that Troy exhibited while protecting his Nation from her enemies. His sacrifice will not soon be forgotten.

CORPORAL MATTHEW C. HENDERSON

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Matthew C. Henderson of Lincoln, NE, a corporal in the U.S. Marine Corps. Corporal Henderson was killed on May 26, 2004, in the Anbar province in Iraq while performing security and stability operations. He was 25 years old. LCpl Kyle Codner of Shelton, NE, a good friend of Henderson, was killed in the same explosion.

Corporal Henderson graduated from Palmyra High School and went on to play football at Nebraska Wesleyan for 2 years before joining the Marines. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, 1st Marine Expeditionary Force at Camp Pendleton, CA. Henderson was one of thousands of brave American service men and women serving in Iraq.

Corporal Henderson is survived by his father, Owen Henderson of Bennet; mother, Becky and sister, Kellie Henderson of Lincoln; and wife, Jaimie of Lincoln. Our thoughts and prayers are with them at this difficult time. America is proud of Matthew C. Henderson's service and mourns his loss.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Corporal Henderson.

STAFF SERGEANT JOSEPH GARYANTES

Mr. CARPER. Mr. President, I would like to set aside a few moments today to reflect on the life of Army SSG Joseph Garyantes. Joe epitomized the best of our country's brave men and women who are fighting to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Joe reminds each of us how good we can be.

Joe was born in Wilmington, DE, to Geraldine and the late James Garyantes. When he was 5 years old, his family moved to the Rehoboth Beach area. Joe attended Rehoboth Elementary School and Epworth Christian School. At Epworth, Joe was remembered as a man with a dynamic personality and a good sense of humor. He always was loyal to his fellow friends and teammates and won the most valuable player award in 10th grade for basketball. His family later moved to Florida.

When Joe was 18, he seriously considered spending life in the ministry helping people. Ultimately, though, this Delaware native enlisted in the Army and became a soldier at the young age of 20. His mission always remained the same though—helping people. When Joe was stationed in Kosovo before going to Iraq, he asked his family to send care packages. These packages were not for him. They were meant for needy kids in the area. During the holiday season, Joe would bring over single soldiers for Christmas dinners and make them feel as though they were part of the family.

Joe spent the last several years in Germany, where he lived with his wife, Monika, and their two sons, Tevin, 6, and Ryan, 4. He was killed by a sniper in Muqadiyah, Iraq. Joe was assigned to B Company, 1st Battalion, 63rd Armor Regiment, 1st Infantry Division, Vilseck, Germany.

I rise today to commemorate Joe, to celebrate his life, and to offer his family our support and our deepest sympathy on their tragic loss. Our country is deeply grateful for his noble service to others, his idealism and for the example that he provided to all Americans by the way he led his life.

KOBY MANDELL ACT OF 2003

Mr. LEAHY. Mr. President, I am pleased to cosponsor the Koby Mandell Act of 2003. This bill is intended to ensure that all terrorists who commit violent acts against American citizens overseas are punished to the full extent of the law. I have already been working to ensure that the Koby Mandell Act is considered by the Senate and, I expect passed into law.

Three years ago, Koby Mandell was beaten to death in a cave near the Jew-

ish settlement of Tekoa on the West Bank in Israel. Koby Mandell was 13 years old. No one was caught or charged with responsibility for this murder. This tragic story is only one among dozens in which U.S. citizens have been harmed by terrorists, and the U.S. Government has been hindered in its ability to hunt down and prosecute the criminals.

The bill would establish within the Department of Justice an office to ensure that all American citizens who are killed or injured by terrorists operating overseas receive equal treatment by the U.S. Government in its efforts to solve the crime and bring the perpetrators to justice. There would be no difference among cases based on the origin of the terrorists or where they carry out their heinous acts. The investigators and prosecutors associated with this new DOJ office could investigate each incident aggressively, whether the victim is a diplomat, a volunteer teacher like Ted Burgon of Oregon, who was killed in Indonesia in 2002, or a child like Koby Mandell.

Specifically, this bill will create the Office of Justice for Victims of Overseas Terrorism. The Office will ensure that rewards are offered for the capture of terrorists involved in attacks that harm American citizens. It will advertise such rewards and publicize the names and photos of suspects. The Office will establish a notification system to keep victims' families updated on the status of investigations and efforts to capture suspects in each case. It will seek to ensure that suspects are not able to obtain visas to travel to the U.S. In addition, the Office will seek to determine if terrorist suspects who are believed to have participated in attacks on American citizens are employed by local or national police forces. If it finds that suspects are so employed, the Office will seek to curtail any American foreign assistance to those forces. Finally, the Office will undertake a comprehensive assessment of indictments and prosecutions by the U.S. Government against suspected terrorists. It will seek to identify any patterns that would determine the reasons for the absence of indictments in certain cases or in certain countries. This assessment will be conveyed to the Attorney General with recommendations for correcting any shortcomings in attempts to pursue, capture, and prosecute suspects.

Just as we must do all we can to prevent terrorist attacks from occurring on our soil, we must take additional steps to protect our citizens from attack overseas. Where they are targeted and harmed, it is the duty of the U.S. Government to pursue each case of murder or injury vigorously until every terrorist knows that he or she will not escape justice. The Koby Mandell Act is a step toward honoring those who have been lost or harmed, and a step toward deterring future attacks. I am honored to join Senator SMITH, Senator WYDEN, and the other

sponsors of this measure as a cosponsor.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that adds new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On Long Island, NY, in November 2000, Michael Ashley was charged with allegedly assaulting his roommate. Ashley believed he was gay.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

IN SUPPORT OF S. RES. 364

Mr. FEINGOLD. Mr. President, I would like to express my support as a cosponsor for S. Res. 364, a sense-of-the-Senate resolution that addresses growing concern about oil markets. Over the past few months, oil prices have skyrocketed to a high of over \$40 per barrel. High gasoline prices are inextricably linked to high crude oil prices, and these high oil and gas prices hurt Americans across the Nation and from all walks of life. Farmers, teachers, and small business owners across the country and in Wisconsin in particular, are getting hit hard by these outrageous costs. This week the people in my home State of Wisconsin are seeing gas prices of over \$2.00 a gallon. Making matters worse, a recent refinery breakdown in Minnesota may further reduce the supply of gasoline in the State.

I am proud to cosponsor this resolution because it sends a powerful message to the administration that it needs to directly, and aggressively, confront this oil and gasoline problem now. First, the resolution expresses the sense of the Senate that the administration should directly confront OPEC and challenge OPEC to immediately increase oil production. The eleven countries that make up the Organization of Petroleum Exporting Countries, OPEC, produce 40 percent of the world's crude oil and control three-quarters of proven reserves, including much of the spare production capacity. Ensuring access to and stable prices for imported crude oil for the United States and major allies and trading partners of the United States is vital to United States foreign and economic policy.

The 2004 OPEC production cuts have resulted in outrageous increases in oil prices. OPEC instituted its production cut in February 2004, which reduced production by 2,000,000 barrels per day.

From February to March 2004, crude oil prices rose from \$28 to \$38 per barrel. In April, OPEC announced its commitment to further cut oil production by 1,000,000 barrels a day, and crude oil prices now exceed \$40 per barrel. We cannot allow this foreign oil cartel to wreak havoc on our economy. The administration must use its diplomatic pressure to persuade OPEC to increase production. The actions of this cartel have real consequences for Americans.

Second, the resolution states that the administration should direct the Federal Trade Commission and the Attorney General to exercise vigorous oversight over the oil markets to protect the American people from price gouging. Mega-mergers throughout the oil industry have resulted in consolidation in the market, and we have, in essence, rebuilt the Rockefeller trust through these mergers. The gasoline market in Wisconsin and at least 27 other States are now considered to be "tight oligopolies" with 4 companies controlling more than 60 percent of the gasoline supplies. In tightly concentrated markets, numerous studies have found oil company practices are driving independent wholesalers and dealers out of the market.

Investigations have also found large consolidated oil companies control not just the buying choices of local gas stations, but also the selling prices of gasoline distributors. As a result, independent stations must buy their gasoline directly from the oil company, usually at a higher price than the company's own brand-name stations pay. With these higher costs, the independent stations cannot compete. The company bases prices not on the cost of producing gasoline, but on the maximum a neighborhood will pay. The FTC and the Attorney General must keep a watchful eye on these anti-competitive practices and use all the tools available to them to protect consumers from price fixing and other practices that result in escalating gas prices.

Finally, the resolution calls upon the administration to suspend deliveries of the oil to the Strategic Petroleum Reserve and release 1,000,000 million barrels of oil a day for 30 days. History indicates that releasing oil from the SPR provides consumers with relief from high gas prices. Within hours of the first air strike against Iraq in January 1991, the first President Bush authorized a drawdown of the SPR. The day after the plan was approved, crude prices dropped by nearly \$10 a barrel. During the fall of 2000, the Clinton administration decided to release oil from the SPR. The day after the oil was released from the SPR, crude oil prices fell from \$37 a barrel to less than \$31 a barrel. In addition, releasing the oil will not affect our security interests because the SPR is almost full. It currently holds 659 million barrels, and its capacity of the is 700 million barrels. The resolution only calls for releasing 30 million barrels.

American consumers need relief from high gas prices now. I urge my colleagues to support this resolution.

CONFIRMATION OF DEBBIE HERSMAN

Mr. HOLLINGS. Mr. President, the Senate recently confirmed Debbie Hersman to become a member of the National Transportation Safety Board. She has served the Commerce Committee for 5 years, and all of us will miss her presence. We all wish her the best in her new position and know that she will serve with honor and integrity.

I ask unanimous consent that the following statements that are part of the hearing record on her nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ERNEST HOLLINGS ON THE NOMINATION OF DEBBIE HERSMAN

Mr. Chairman, I know Senator Hutchison would agree that the most important character a member of the National Transportation Safety Board can have is independent thinking. I don't want someone going to an accident, mind already made up, sharp elbows telling everybody what they are supposed to find, and everything like that.

What I want is someone who can look at all sides of the issue. Someone who can challenge people to make the right decisions. Someone who can manage the non-partisan professionals doing the work. And someone, who at the end of the day, will give a fair and unvarnished response on what happened.

I pick NTSB members like George Bush picks vice presidents. You can search the country, far and wide, but the best of the best in transportation safety, is right here in the room, everyday with us, Debbie Hersman.

She has worked for the committee for almost 5 years. I've had her focus on rail, because of the tremendous needs we have to modernize Amtrak and improve passenger and safety issues.

But she also has taken on oversight of truck and bus safety, pipeline safety, hazardous materials transportation safety. And post 9-11, I've asked her to oversee transportation security issues, insofar as air, rail, ports, and trucking. In other words, she is well-rounded in all aspects of transportation. Her experience belies her youthful appearance.

Prior to joining our staff, Debbie was the staff director for Congressman Bob Wise of West Virginia, who served on key transportation and infrastructure committees. She holds a bachelor's degree from Virginia Tech and a master's degree from George Mason.

We still have much work to do on this committee on transportation issues, and I hate to lose my right arm. She is as hard a worker, as smart as any, as competent a professional as any Senator could ask for. But I know the country is better off, if Debbie is at NTSB, and I proudly endorse her nomination.

Mr. ROCKEFELLER. Mr. President, we hold many nomination hearings in this committee, and we say many things about the nominees, usually in praise of them, but at times questioning them. This nomination is a personal one for many of us, as we have all watched Debbie work tirelessly on behalf of us and our constituents.

Before I discuss all of the reasons that Debbie is absolutely the right person for this position, I want to proudly state she is a West Virginian. Both of her parents were raised in Roane County, WV. In addition, she has many proud relatives in Spencer and Charleston, WV. I know that the people of West Virginia share my pride in all of Debbie's accomplishments.

Before coming to the Senate Commerce Committee, Debbie worked for then Congressman Wise of West Virginia in many capacities, including chief of staff. Governor Wise called me to support her nomination, and we wholeheartedly agreed that there was no better person for the job. Debbie has spent a career for the people of West Virginia, and I know the entire country will benefit from her presence on the National Transportation Safety Board.

Each of us has had to call on the National Transportation Safety Board, or watched on CNN, the work that they do in sifting through a disaster site and in dealing with family members following an aviation tragedy. We rely on their independence to provide Congress and the transportation regulatory agencies recommendations to improve safety. It is a critical role that they play, and one divorced from politics and partisanship. The National Transportation Safety Board deals with situations where tragedies affect many people and that makes it all the more important that we select someone with both the technical knowledge to contribute to the board's work and the human compassion needed in the context of these tragedies. Debbie melds these two important requirements in a particularly special manner.

Each Board member is an independent source of knowledge and information. While the Board votes on matters, and we hope that all agree on the safety recommendations, each is charged with independently making a decision based on the facts and analysis of its expert staff. A small agency, with some 429 employees, its expertise and knowledge is recognized around the world.

Debbie, who has worked on this committee for 5 years, has worked with all of us on transportation safety and regulatory issues, using her expertise and talents to push for improvements. Her primary focus has been surface transportation, but I know that she has spent a considerable amount of time on aviation safety issues, and helped with aviation security matters following 9/11. I know she worked on the highway bill while a House staff member, and that knowledge will help her in her new position.

Her talents, wit, charm and expertise will be sorely missed. I wish her the best of luck in her new position, and while none of us hope to see her about a tragedy in our states, we know that whatever the situation, the NTSB will be in good hands with Debbie there.

Mr. BREAUX. Mr. President, today we are honored by the nomination of

Debbie Hersman to serve as a member of the National Transportation Safety Board. Along with Senator HOLLINGS, I have spent a great deal of time over the last 5 years working with Debbie. She has always provided me with excellent counsel and I can count on her to know the facts and understand the points of view of all sides.

Debbie's experience in all modes of transportation qualifies her well for this position. In 1999 she spent countless hours drafting legislation that ultimately resulted in the creation of the Federal Motor Carrier Safety Administration at the Department of Transportation, with the primary purposes of reducing large truck fatalities on our nation's highways. In 2001 Debbie and I worked through many legislative issues on the floor along with Senator MCCAIN and his staff to pass a pipeline safety bill. The pipeline safety legislation was prompted by several fatal accidents that were also investigated by the NTSB. We rely on the Board to provide us with independent and honest answers about accidents and what needs to be done to prevent them in the future. I know that we can count on Debbie to understand the import of the Board's work and the interplay between the Board's recommendations and the legislative and regulatory processes.

While it is hard for us to let one of our own go, I have every confidence that she possesses the professionalism, credibility, and with the necessary insight to do the job well. Debbie always sees the big picture yet she pays attention to the details. Her tenacity and ability to hold people's feet to the fire will serve her well in her new position as she sifts through the facts at accident scenes and works through staff recommendations.

It has been a pleasure to work with Debbie on a multitude of transportation issues. I have always been impressed with her diligence and professional demeanor. While I will miss her, on both a professional and personal level, I know that Debbie will serve on the NTSB with distinction. It is my hope that we can move her nomination and get her over to the NTSB quickly.

U.S. INVESTMENT IN INTERNATIONAL ENERGY EFFICIENCY

Mr. JEFFORDS. Mr. President, I address the Senate on the matter of the need for continued U.S. investment in energy efficiency projects in other countries, as well as our own. I recently submitted my view on this matter to a publication of the Alliance to Save Energy, but I feel now, particularly in these times of high gasoline prices, that I should make a few remarks to the full Senate on this issue.

Fluctuating energy prices and instability in the Middle East once again are prompting calls for energy independence for the United States. In our efforts to meet that goal, we cannot forget that the energy use of other

countries directly affects both the supply and price of our energy resources here at home.

Federal efforts to ensure freedom from fluctuations in energy prices have been advocated by every President, both Republican and Democrat, since 1973 and the infamous oil boycott. As Americans we count on energy to protect our security, to fuel our cars, to provide heat, air conditioning and light for our homes, to manufacture goods, and to transport supplies. In all of these needs, we, as consumers, pay the price for fluctuations in the global energy market.

Our efforts to guarantee adequate energy supplies in the U.S. should prompt us to again take a hard look at energy efficiency not only here, but abroad. We are reminded that the international energy efficiency programs and projects run by our Federal Government protect and enhance the economies and standard of living of developing nations around the world. Given that we have a single integrated global petroleum market these efficiency programs directly benefit American consumers: by lessening demand for oil abroad, we are helping to loosen supply and hold down price pressures domestically. Quite simply, lowered oil demand in Madras helps truckers in Montpellier. Lowered oil use in Sao Paulo helps drivers in Santa Fe.

A visitor to the capital of almost any developing country, be it Bangkok, Cairo, Manila, or Mexico City, will have a common experience. These places have already seen extraordinary increases in energy use. People who last saw these places 10 or 15 years ago are struck by the massive increase in air pollution from automobiles, trucks, and factories. As development takes hold and growth accelerates, energy use increases dramatically. But in many cases developing countries do not use energy efficiently. They often require two to four times more energy than industrial countries to produce the same output. This fuel consumption speeds up the accumulation of carbon dioxide in the atmosphere, contributing to global warming. In addition, fuel combustion is often dirty and incomplete, generating local pollution.

U.S. Government-funded efforts energy-efficient programs that provide equipment and improved energy management practices can greatly reduce energy consumption. Over the last 10 to 15 years, the U.S. Agency for International Development, U.S. AID, launched a number of energy conservation projects aimed at energy use. These projects helped create an interest in energy efficiency, trained local engineers in energy management, and sponsored energy audits and demonstration investments. The projects were technically successful and had good economic rates of return, and the Alliance to Save Energy has been involved in several of these projects. In most cases, fuel savings paid for the cost of investments in a year to two.

By reducing energy consumption, the measures also reduced pollution.

One of the most successful examples of a national energy conservation program has been Brazil's National Electricity Conservation Program PROCEL. With support from U.S. AID, PROCEL has developed demonstration and education programs to foster energy efficiency savings and reduce the need for new construction of costly power plants. The country has developed energy efficiency standards, regulatory measures, and joint-venture projects that have become a model for the rest of Latin America. PROCEL's energy efficiency measures have resulted in direct savings of over 1200 gigawatt-hours per year.

The need for programs such as these are overwhelming. According to the Energy Information Administration's most recent International Energy Outlook world energy consumption will rise by 54 percent from 2001 to 2025, driven by rising demand for power in China, India and other parts of the developing world.

The report, issued on April 15, 2004, says oil will remain the dominant energy source worldwide through 2025, in Asian markets as well as in the United States. Combined, Asian and U.S. consumers will account for nearly 60 percent of the increase in world oil demand, which is projected to rise from 77 million barrels per day in 2001 to 121 million barrels per day in 2025. To meet that rising demand, the world's producers would have to increase daily production by more than 44 million barrels.

And for electric power generation, coal dominates energy markets in China, India, and other developing Asian countries. EIA projects extensive increases in coal use in China and India. EIA also projects a near doubling of worldwide net electricity consumption by 2025, from 13,290 billion kilowatt hours to 23,072 billion kilowatt hours—again propelled by rising demand for electricity in the developing world.

Unfortunately, despite these successes there is an alarming and decreasing trend in funding for energy efficiency programs at U.S. AID. During the past few years these programs have received a cut in funding—with the fiscal year 2004 request (\$8 million) cut to 50 percent of the fiscal year 2001, \$16 million funding. And the current proposal will not reverse this trend.

In a century likely to contain many surprises and new challenges, the importance of U.S. energy security can only increase. In achieving energy security we must be mindful of a few things. We must assist developing countries in cultivating a responsible energy policy which supports sound economic and social development for the betterment of their population and the global environment. This mutually beneficial partnership will enhance our energy security while providing sorely needed revenues for health care, education, and infrastructure abroad. We

also must remember that it takes continued federal investment to achieve this worthy goal.

TRIBUTE TO LIEUTENANT COMMANDER JAMES MATHIEU

Mr. GREGG. Mr. President, I congratulate and honor LCDR James Mathieu of Sanbornville, NH on the occasion of his retirement after 28 years of honorable service to the United States as a member of the United States Coast Guard.

Rising through the ranks from recruit to his current rank, LCDR Mathieu distinguished himself on numerous occasions. From his Honor Graduate status in Recruit Training, through his successful completion of various training and vocational schools, to the achievement of ever increasing rank, LCDR Mathieu has upheld the Coast Guard motto of *Semper Paratus, Always Ready*.

Jim's afloat assignments included Coast Guard cutters *Hamilton*, *Chase*, *Bibb*, *Unimak*, and *Vigilant*. His operational ashore and staff assignments include the Coast Guard Academy, Group Woods Hole, Group Portland, Coast Guard Headquarters, and Station Miami Beach as Commanding Officer of a 400 man detachment in Miami Beach. Tasked with search and rescue, law enforcement and environmental response, LCDR Mathieu led his team in the Coast Guard's busiest multi-mission station. With an impressive record of rescues and other successful missions, LCDR Mathieu proved that his unit was ready for countless tasks in support of the United States' maritime interests. Jim retires from the Office of Coast Guard Congressional Affairs, serving as Governmental Liaison to the United States Coast Guard.

A proud husband, father and grandfather, LCDR Mathieu is married to the former Lori Anne Dowd, herself a career Coast Guard officer. Together, they have raised a family of one son, James Michael II, and one daughter, Melissa. As a family, they were often faced with the challenges borne by so many who serve our country. They were also rewarded by the satisfaction of knowing they have participated in a noble and just cause.

Throughout his entire career, LCDR James Mathieu has set his standards high and striven to meet them in every endeavor. Through the junior ranks, leadership positions, and as a family man James Mathieu has continually distinguished himself.

Jim exemplifies the words of Daniel Webster who said:

"God grants liberty only to those who love it, and are always ready to guard and defend it."

Because of his efforts, the liberty of this country is made more secure. On behalf of the State of New Hampshire, as he charts a new course in life, I wish him fair winds and following seas.

CONGRATULATING THE FIRM OF LEO A. DALY

Mr. HAGEL. Mr. President, today I congratulate the international architecture and engineering firm Leo A. Daly for its direction, construction and design of the National World War II Memorial. The completion of the National World War II Memorial, which was dedicated last weekend, would not have been possible without the Leo A. Daly firm. I am particularly proud of this firm since it was founded 89 years ago in my home State of Nebraska.

The National World War II Memorial acknowledges the service and sacrifice of those who served our country during World War II. According to The Commission of Fine Arts, the memorial is "an eloquent statement worthy of the subject and the site."

I congratulate and thank the Leo A. Daly employees who have honored the service of our Nation's "greatest generation" through the construction of this National World War II Memorial.

HOOSIER VETERANS VISITING OUR NATION'S CAPITAL

Mr. LUGAR. Mr. President, I rise today to share with my colleagues the names of many of the Hoosiers who made the journey from the State of Indiana to Washington, DC, to take part in the festivities this past weekend surrounding the dedication of the new World War II Memorial and in remembrance of Memorial Day.

My staff and I were pleased to have the opportunity to meet with these honorable veterans and their families and to listen to their vastly different experiences throughout World War II and henceforth. In addition, a few of these veterans were able to participate in interviews that will be submitted to the Library of Congress as part of the Veterans History Project.

Mr. President, I ask unanimous consent that the following names of my constituents who visited my office on Friday, May 28, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

J. Louis Martinez from Merrillville and his family.

Sam Slevin from Nineveh and his family.

Carl Myers from Marion and his family.

Henry Jones from Indianapolis and his family.

Warren Wilson, now from Clearwater, Florida, and his family along with William Dang, formerly from Indianapolis.

Joseph Dolezal from Michigan City and his family along with Steve Jones from LaPorte.

Carol Hany from Hoagland, Jean Boyer from Fort Wayne, and Lorraine Schubert from Fort Wayne.

Richard Rooker and his family from Warsaw.

John Mohney from Bloomington and his family.

Jim Downard from Michigantown and his wife Mary.

Joe Carey and his wife Sue, and Dick Gratham and his wife, Polly, all from Delphi.

Nelson Gray, his wife, Christine, his daughter, Janet Pflum, and grandson, Marques Pflum, all from Indianapolis.

John Davis from Indianapolis and his wife, Betty. They were joined by family members John, Molly, Kevin, Michael, Dorothy, Donna, Joe and Pam Davis.

Carl Weisheit from Fort Wayne and his wife, Doris, as well as Eric and Cris Brueggman.

Russell Sutton and his family.

The Ridenour Family from Frankfort and the Reed Family from Fort Wayne.

Jim, Patsy and Bill Perry from Winamac. Dick, Tim and Rick Courtney from Muncie and Newburgh.

Loren, Deb, Jonathon and Chris Meyer from South Bend.

Bill Leburg from Fowler and his family.

Mary Jungemann and her family from Indianapolis.

CONGRATULATING THE WINNERS OF THE NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARDS

Mr. SUNUNU. Mr. President, I rise today to congratulate this year's winners of the New Hampshire Excellence in Education Awards. The "ED"ies are awarded to those individuals, schools and educational programs that have made significant contributions to public education and have met the highest standards of excellence. Educators and schools who are selected have demonstrated a high standard in areas such as curriculum and instruction, teaching and learning process, student achievement, leadership and decision-making, community and parental involvement, and school climate. On June 5, 2004, the leadership and achievement of these 33 individuals and 12 schools in New Hampshire will receive acknowledgment. I add my voice on behalf of the citizens I represent in similarly recognizing our appreciation and respect for these professionals who make countless sacrifices and contributions in our schools.

The "ED"ies are presented in various categories of excellence, such as math and science teaching, curriculum development, and environmental education. The specific criteria for the "ED"ies, which is developed by the board of directors for the New Hampshire Excellence in Education Awards, has been applied to elementary, middle, and secondary schools, along with teachers, administrators and other education professionals performing at each of these levels, as well as higher education. The selection committees consist of some of New Hampshire's finest educators and community leaders who have the responsibility of applying these standards and evaluating the nominees. The committees make their selections after careful review of the nominees, school applications and assessments based on on-site visitations.

The teachers recognized here have clearly had a profound impact on their students just as many of my own teachers had on me. The teachers for whom I have the fondest memories created a positive learning environment and necessary direction that were key elements to my growth as a person and as a public servant. They impressed

upon me the importance of one's contribution at the community level and the important role a sound public education plays in our society. Now, as a parent, I can more fully appreciate how delicate the task of educating can be, and understand more now than ever the vital resource our schools and teachers provide to the parents in the towns and cities of New Hampshire.

The educators and community leaders chosen this year to receive "ED"ies have demonstrated superior dedication to their students, schools and communities. They deserve this prestigious honor for the important roles they play in helping our children reach their goals and succeed in school. The individuals and schools being commended this year have provided students with the tools they need to become productive and engaged citizens, and are our State's most treasured role models—setting positive examples for the children that surround them, teaching personal responsibility and hard work, and shaping the character of young minds. For these achievements, our State and our country owe them a great deal of gratitude.

Since first elected to Congress in 1996, I have made improving education a legislative priority of mine. I am cognizant of the fact that the men and women on the front lines of our classrooms tackle the toughest of challenges and enable students to reach their full potential. We, in New Hampshire, enjoy an outstanding education system that is a true model for the country. This success is due in large measure to the contributions and leadership of the many educators and schools recognized here today.

I ask unanimous consent that a list of the 2004 New Hampshire Excellence in Education Award winners be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

2004 New Hampshire Elementary School Representatives of Excellence

Canterbury Elementary School, Canterbury
 Gilford Elementary School, Gilford
 Elementary School Finalists: Grinnell Elementary School, Derry; James Masticola Elementary School, Merrimack; Mast Way Elementary School, Lee; Tuftonboro Central School, Tuftonboro

NH Environmental Educators

Valerie Ford and Jon Marshall, Bartlett Elementary School, Elementary Level
 Esther Cowles, NH Project Learning Tree, Nonformal Division
 Scott Semmens, Hopkinton High School, Secondary Level

NH Charitable Foundation Christa McAuliffe Sabbatical

Sue S. Pribis, Bow Memorial School

NH Association of World Languages

Marie-Claire Wheeler, Con-Val High School, Peterborough

NH Recipient—Presidential Awards for Excellence in Math and Science Teaching

John G. Emerson, Conant High School, Jaffrey, Secondary Math

NH Affiliate of the International Society for Technology in Education

The Pat Keyes Technology Educator Award: Mark MacLean, Merrimack Valley High School, Penacook

Impact Award: Gerry Ryder, Belmont Elementary School; Susan Janosz, Manchester School District

Phi Delta Kappa Education Supporter Award

Alex Ray, Common Man Restaurants

NH College and University Council

John Ernest, University of New Hampshire

NH School Administrator's Association

Superintendent of the Year: Dr. Kenneth DeBenedictis, SAU #41, Hollis-Brookline
 Outstanding Service Award: Allen Damren, SAU #6, Cornish

NH Association of School Principals

Marc Boyd, Maple Avenue Elementary School, Goffstown, Elementary Level

Byran Lane, Alvirne High School, Hudson, Secondary Level

Sandra McGonagle, Gilford Elementary School, Assistant Principal

NH Educational Media Association

Jeanette Lizotte, Bow High School

NH Technology Education Association

Curtis Edwards, Bow Memorial School, Technology Teacher of the Year

NH Career and Technical Administrators

Cornelius A. Moylan, Kennett Career and Technical Center, Conway

NH Association for Supervision and Curriculum Development

Nick Hardy, Executive Director, NHASCD

NH Schools of Excellence

2004 New Hampshire Middle School Representative of Excellence: North Hampton School, North Hampton

Middle School Finalists: Amherst Middle School, Amherst; The Whitefield School

NH School Boards Association

Rochester School Board, School Board of the Year

NH Partners in Education

Linda Meehan, School Volunteer of the Year, Sandown Elementary School

NH Art Educators Association

Melody R. Funk, Holderness Central School, Elementary Level

Scott P. Chatfield, Coe-Brown Northwood Academy, Secondary Level

NH School Nurses Association

Joan Paige, Milton Elementary School

NH Humanities Council

Flora Sapsin, Londonderry High School

NH Association of Teachers of English

Elizabeth Juster, Londonderry High School

NH Music Educators Association

Richard J. Maynard, West High School, Manchester

NH School Counselors Association

Naomi Drury, Conant High School, Jaffrey

NH Association for Gifted and Talented Education

Elise Racicot, SAU #40, Milford

NH Business Education Association

Lynn Davis, Hugh Gallen Vocational Center, Littleton

NH Association of School Psychologists

Michel Cronin, North Country Educational Services, Gorham

NH Department of Safety D.A.R.E. Program

Mark Nash, Holderness Central School

NH Schools of Excellence

2004 New Hampshire Secondary School Representative of Excellence: Belmont High School, Belmont

Secondary School Finalist: Dover High School, Dover

NH Teacher of the Year

Ida Dziura, South Elementary School, Londonderry

DRUG IMPAIRED DRIVING RESEARCH AND PREVENTION ACT

Mrs. FEINSTEIN. Mr. President, I rise to co-sponsor, along with my colleague Senator GRASSLEY, the Drug Impaired Driving Research and Prevention Act. This legislation will help us combat an often overlooked killer on our Nation's roads—drugged driving.

Drivers who are drugged are not as easy to catch as drivers who are drunk. We have not yet developed technology to quickly identify drivers who operate vehicles under the influence of drugs. States do not have consistent laws to punish drugged driving. And law enforcement does not have adequate training to detect and prosecute drugged drivers.

To help make our roads safer, this legislation takes a tough stance while respecting State's traditional law enforcement powers.

First, the bill directs the U.S. Department of Transportation to draft a model law to suggest to the States. That model law will make it a crime for an individual to drive with "any detectable amount" of a controlled substance in his or her system, or when drugs noticeably affect mental or physical abilities. For the worst repeat offenders, the law has tough penalties to show that we mean business—over a year in jail.

Second, the law calls for research into technology to let us detect drugged drivers quickly. Right now, there is nothing like a "breathalyzer" test for drugs.

And third, this legislation will have the Department of Transportation develop training programs so that law enforcement departments throughout the Nation can learn how to better detect drugged drivers.

Why do we need this bill? Because drugged drivers are a reckless danger to everyone else on the roads. Consider the following: In 2002, 11 million people drove while under the influence of drugs in the United States. Those numbers translate into tragedy. Illegal drugs are used by about 10 to 22 percent of drivers involved in all motor vehicle crashes.

Despite this documented risk, drugged driving is tricky to catch. We catch drugged drivers less often than we catch drunk drivers. Too few police officers have received training that would help them take drugged drivers off the streets. And in the fifty States, there is simply no consistent method to identify drugs in the bodies of drivers.

Not surprisingly, this legislation has wide support. The federal Office of National Drug Control Policy is backing it. So is the Partnership for a Drug Free America, the International Association of Chiefs of Police, the Community Anti-Drug Coalitions of America,

and other groups. The House of Representatives has already voted to approve the legislation, as part of the Transportation Equity Act.

This legislation will help the states keep drugged drivers off our roads. It will do so by encouraging the States to make the laws against drugged driving uniform, by researching better technology to test for drugs, and by giving law enforcement more training.

I urge my colleagues to join us in this effort.

ADDITIONAL STATEMENTS

TRIBUTE TO VERMONT HOUSING FINANCE AGENCY

• Mr. JEFFORDS. Mr. President, today I wish to recognize the Vermont Housing Finance Agency, which on June 3rd will mark its 30-year anniversary of making affordable housing possible for Vermonters throughout the State. The Vermont Housing Finance Agency (VHFA), which is celebrating this significant milestone in my home State, has throughout its history been a consistent leader in financing safe, decent, and affordable housing for low- and moderate-income Vermonters. This is no small feat given the shortage of affordable housing options throughout the State.

The upcoming celebration gives us the opportunity to recognize the hard work and dedication of the leadership and staff of this agency. Executive Director Sarah Carpenter, Board of Commissioners' Chair Lisa Randall, and the 41 staff members and 7 commissioners work tirelessly to promote this agency's worthy goals. Over 24,000 Vermont families have directly benefited from the extraordinary assistance that VHFA has provided since its inception.

VHFA is an agency that each and every Vermonter should be very proud of. I admire the work that VHFA does and frequently look to its staff for guidance regarding affordable housing matters in Vermont. I am delighted to stand before you today in recognition of this great agency, which exceeds the standards of excellence in so many ways. I offer VHFA my deepest congratulations for its 30 years of service to the people of Vermont.●

TRIBUTE TO WILLIAM GREENBLATT

• Mr. TALENT. Mr. President, it is with honor that I recognize Mr. William Greenblatt of St. Louis, MO, in the celebration of his 50th birthday on May 9, 2004.

Mr. Greenblatt has made significant contributions to the public and the media through his photography services. His photos have appeared in many well-known newspapers, magazines and periodicals from The New York Times to Sports Illustrated to the St. Louis Post-Dispatch.

In his personal photography business, he has assisted many prominent cus-

tomers and used his talents to earn the role of official photographer for public officials and popular recording artists.

Mr. Greenblatt is affiliated with numerous professional groups and serves on a variety of community boards. He is also the recipient of many awards and commendations in his professional career.

I congratulate Mr. William Greenblatt on reaching the landmark year of 50, and I wish him many future years of happiness and enjoyment in his personal and professional endeavors.●

THANKING CHIEF WILLIAM MICHAEL ROTH

• Mr. GRAHAM of South Carolina. Mr. President, I wish to recognize the accomplishments of one of my constituents, William Michael Roth, and to commend him for his tenure as Chief of Police for the Town of Lexington, South Carolina Police Department as he leaves after 29 years of service.

Chief Roth has served as a law enforcement professional for over 31 years. Under his leadership, the size of the Lexington Police Department has more than tripled and it has received many awards for its efforts in public and youth safety. Roth exhibits an innovative and hands-on approach to law enforcement that has greatly benefited the police department and the Lexington community through the establishment of new safety services and the creation of outreach programs to individuals of all ages.

Roth was instrumental in the creation of local school-based programming such as School Resource Officers and DARE classes for elementary and middle school students. Roth oversaw the creation of an "Adopt-a-Cop" Program within the Lexington Police Department that was recognized as the 2003 Public Safety Program of the Year by the Municipal Association of South Carolina and as a Model Cities Program by the National League of Cities at their annual conference. Roth was directly responsible for the establishment of an investigative division in the Police Department that includes a Child and Elder Abuse Investigator and a full time Victim's Advocate.

Roth has been an asset to the Lexington Police Department and to the State of South Carolina. I invite you to join me in thanking Chief William Michael Roth for his service and dedication to quality law enforcement and the safety of the citizens of South Carolina.●

TRIBUTE TO DR. BART BARLOGIE

• Mrs. LINCOLN. Mr. President, I rise today with my colleague Senator MARK PRYOR to honor Dr. Bart Barlogie, professor of medicine and pathology at the University of Arkansas for Medical Sciences, UAMS, the Arkansas Cancer Research Center, ACRC, and director of the Myeloma Institute for Research and Therapy, MIRT.

For his lifelong work to find innovative treatments for myeloma cancer, Dr. Barlogie received the International Myeloma Foundation's Second Robert A. Kyle Lifetime Achievement Award on May 8, 2004, in Little Rock, AR.

Throughout his career, Dr. Barlogie has been recognized as one of the most innovative, creative, and knowledgeable minds in the field of myeloma clinical research and treatment. His leadership has made Arkansas home to the foremost center for myeloma research and treatment in the world.

Innovations pioneered under Dr. Barlogie's leadership include the accepted use of bone marrow and peripheral blood stem cell transplants that have resulted in better clinical outcomes for myeloma patients. In fact, the MIRT has performed more than 4,400 bone marrow transplants, far more than anywhere else.

Dr. Barlogie's work will thalidomide as a treatment for myeloma has dramatically changed how patients are treated. His use of anti-angiogenesis as a cancer treatment is now widely accepted and used in not only myeloma but many other forms of cancer.

Over the last 10 years, Dr. Barlogie's work has led to the widespread use and acceptance of magnetic resonance imaging, MRI, and positron emission tomography, PET, scans for myeloma patients. His work is also on the forefront of the movement toward effective molecularly targeted therapies and treatments. These techniques continue to improve the means by which physicians can combat cancer.

Dr. Barlogie is totally devoted to his patients. He is continually driven to find better therapies, prolonged remission rates, a better quality of life, and, ultimately, a cure to one of the most challenging and misunderstood of all cancers.

I am proud to honor Dr. Barlogie today, and I am happy that he, his wife Kathleen, and their three children, Britta, Eva, and Bart, have made their home in Little Rock, AR. They have made significant contributions to our State and community.

I know all Arkansas join me in thanking Dr. Barlogie for making Arkansas the center of his professional and personal life. His achievements have helped make our stellar medical institutions, the University of Arkansas for Medical Sciences, the Arkansas Cancer Research Center, and the Myeloma Institute for Research and Therapy, gain worldwide prominence in the fight against cancer.●

• Mr. PRYOR. Mr. President, I rise today with my colleague, Senator BLANCHE LINCOLN, to honor Dr. Bart Barlogie.

I am pleased to have this opportunity to publicly commend Dr. Barlogie for his unyielding dedication and stalwart leadership in the field of oncology research and treatment. His hard work has led to the development of innovative and comprehensive approaches to treatment of patients with multiple

myeloma, which has translated better therapies, prolonged remission rates for cancer survivors and improved the quality of life for many of his patients. Moreover, his commitment may ultimately lead to a cure for the most challenging and misunderstood of all cancers.

On May 8, 2004, Dr. Barlogie was awarded the International Myeloma Foundation's Second Robert A. Kyle Lifetime Achievement Award. This award, which is being given for only the second time, recognizes the significant and revolutionary work of his professional career. This award follows an already long and distinguished line of accomplishments.

Arkansas was well on its way to becoming the center for myeloma clinical research and treatment when Dr. Barlogie accepted the position of director of hematology/oncology, and director of research at the Arkansas Cancer Research Center, (ACRC), at the University of Arkansas for Medical Sciences, (UAMS), and founding director of the Myeloma and Transplantation Research Center, MTRC, within the ACRC. His research team has developed innovative and comprehensive approaches to the treatment of patients with multiple myeloma. Because of his leadership role in the area of myeloma research and treatment, he was named the first director of a newly established Myeloma Institute for Research and Therapy.

During Dr. Barlogie's 15-year tenure at UAMS, more myeloma patients have been treated in Arkansas than anywhere else in the world. Yet, despite his gains in this area, myeloma continues to affect thousands. This year, approximately 15,000 Americans will be diagnosed with myeloma. Looking to the future, Dr. Barlogie envisions a satellite-based intensive training program which will reach physicians worldwide so that many of these patients treated at the institute will have access to specialized medical care upon returning to their home States or countries.

Of paramount importance to Dr. Barlogie are his wife Kathleen and their three children, Britta, Eva, and Bart. He loves them dearly and credits their support for his success. They have made their home in Little Rock, AR, and have added a number of their own contributions to our community and State.

We thank Dr. Barlogie for making Arkansas the center of his professional and personal life. His past and future achievements have truly helped make the University of Arkansas for Medical Sciences, the Arkansas Cancer Research Center, and the Myeloma Institute for Research and Therapy very respectable among the premier health care institutions in the State. More importantly, through his work, Dr. Barlogie has had concrete and positive impacts on the everyday lives of thousands of his patients. His commitment to this cause is incredible: he is saving

lives and providing hope for millions more.●

TRIBUTE TO ADMINISTRATIVE LAW JUDGE ALLAN RAMSAY, JR.

● Mr. VOINOVICH. Mr. President, I rise today to pay tribute to Allan Ramsay, Jr., assistant regional chief administrative law judge and Cleveland Hearing Office chief administrative law judge, who passed away on May 18, 2004.

I have always been a strong advocate of public service, and a staunch supporter of those who put service before self. Serving the citizens of the great State of Ohio for over 22 years, Judge Ramsay was one of those individuals. His dedication to his profession and to helping others reflected his compassion and devotion to his fellow citizens.

Appointed to the Cleveland Hearing Office of the Social Security Administration as an administrative law judge in 1982, Judge Ramsay worked tirelessly to improve the lives of more than 15,000 people who turned to the Social Security Administration in their times of need. From 1992 to 1997, he served as the chief administrative law judge in the Social Security Hearing Office in Columbus, OH. In 1997, he returned to Cleveland as the chief judge of that office, and in 1999 he became the assistant regional chief administrative law judge, while maintaining his leadership position in the Cleveland Hearing Office.

Throughout his distinguished career, Judge Ramsay touched the lives of countless individuals. His career is a shining example of public service of which the people of Ohio and the rest of the Nation should be proud.

Judge Ramsay held himself to a high standard and his service to our Nation reflects that. Judge Ramsay is survived by his wife, Beatrice, and his two children. In this time of great loss, my condolences go out to the entire Ramsay family. I can only hope that they will find solace in the thoughts and prayers of loved one, friends, and all those whose lives were bettered through his work.

May God bless Judge Allan Ramsay and his entire family.●

TRIBUTE TO R. PRESTON WOODRUFF, JR.

● Mrs. LINCOLN. Mr. President, I rise today to pay tribute to an Arkansan who has committed over a quarter of a century of his life creating programs that enhance access to higher education for Arkansans.

During his tenure as chairman of the board of directors and then as executive director for the Arkansas Student Loan Authority, ASLA, Mr. R. Preston Woodruff, Jr., has unselfishly shared his knowledge and talents to ensure that students are equipped with the financial resources needed to become future leaders in our State and our Nation.

Programs established under Preston's leadership include: EdLoan—a

special loan for Arkansas teachers which offers incredibly low interest rates for those who choose to remain in Arkansas to teach in grades K through 12. Student Outreach Services—a program available to all Arkansas schools which provides materials and seminars to high school counselors and their students in order to promote the benefits of higher education and the means to achieve a higher education. Student Advantage Scholarships—25 scholarships awarded annually by ASLA. This program was formed as a means to create interest in the financial aid process and to provide funds to assist in gaining access to higher education. Honor Roll Student Loan Borrower Benefit Program—a program that offers the lowest student loan interest rates available to Arkansas students.

Preston was also instrumental in establishing the Education Finance Council, EFC, an association of not-for-profit State student loan secondary markets that played an important role in influencing legislation regarding the Federal Family Education Loan Program.

On June 30, 2004, Preston will officially retire from his position as executive director for ASLA. He is a living example of the many outstanding Americans who were born and educated in Arkansas, and I am privileged to recognize his tireless commitment to Arkansas students and outstanding leadership as executive director of the Arkansas Student Loan Authority.●

HONORING ERIC SIMON, GRADUATING SENIOR OF NEW PRAGUE HIGH SCHOOL, NEW PRAGUE, MN

● Mr. COLEMAN. Mr. President, today I wish to honor a fine young man, Eric Simon, who will be graduating from New Prague High School in Minnesota on Friday, June 4, 2004.

Eric Simon has earned my respect because of the extraordinary courage he has demonstrated in confronting one of life's most difficult challenges. Eric's father has AIDS, and he has lost his mother and sister to AIDS.

During the early 1980s, Eric's father, Douglas Simon, served in the Army National Guard at Fort Benning, GA and during his service he was injured and required emergency medical surgery. During surgery, Douglas Simon required a nine-unit blood transfusion. The blood he received had not been screened as it should have been, and it contained the AIDS virus.

Eric and his brother, Brian, were spared from the ravages of the disease, but they have had to shoulder adult responsibilities since they were children. Since he was a boy, Eric has handled the grocery shopping, worried about paying the bills and cared for his father.

Sometimes Eric has had to listen to some unpleasant and even mean-spirited comments from people who don't understand what his family has been

through. As a young person, Eric has often been challenged to be the bigger man, and to keep from being hurt by unkind remarks. It has not been easy.

Eric has also committed himself to his education. I understand at times that has been frustrating and, like all young men, Eric has sometimes been tempted to study less and hang out more. As the occasion of his graduation attests, however, Eric has risen to the challenge and succeeded.

In closing, I would like to extend my best wishes to Eric Simon on his high school graduation from New Prague High School. His commitment to his education and family are commendable and greatly admired. I am very proud of this young man. I congratulate him on a job well done.

I call upon my colleagues to join me in honoring Eric Simon of New Prague, MN on the occasion of his high school graduation.●

HONORING DR. FRED CHOLICK

● Mr. JOHNSON. Mr. President, today I publicly congratulate Dr. Fred Cholick on a very successful career as the dean of the College of Agriculture and Biological Sciences at South Dakota State University. He has accepted the position as the new dean of agriculture at Kansas State University.

Over the years, Fred has been extraordinarily committed to South Dakota agriculture and SDSU. He is one of the most effective agriculture spokespersons the State has ever had. He speaks with compassion about the benefits of agriculture to our State's economy.

On a personal level, Fred quickly struck a close working relationship with my staff. He enjoyed working with my office when I secured a seat on the Senate Appropriations Committee and Fred experienced the same learning curve we did as we explored various ways to secure Federal funding for SDSU. Despite some setbacks, Fred always kept a positive outlook on the very precarious appropriations process and was incredibly honored that he had the opportunity to work on projects to benefit SDSU and South Dakota's agricultural community. Fred is a real ambassador for agriculture in the State and has done a very effective job at outreach to get everyone in South Dakota to understand the value of our agriculture economy.

Fred worked hard to ensure SDSU was a reputable university with respect to animal health, dairy, ruminant nutrition, biotech and other areas of research. He should be given particular credit for working with Associate Dean Kevin Kephart to develop the Sun Grant Initiative into something that may soon become a reality. His vision for the role renewable energy can play in agriculture is cutting edge. Fred has always been an effective advocate for all land grant universities, and that is why his colleagues around the country selected him as their spokesperson. So

while always loyal to South Dakota, Fred could effectively speak on behalf of all land grant schools across the United States.

He has developed strong relationships with his students as a teacher, as well as the dean of agriculture. He worked hard to ensure the students in the College of Agriculture were getting personal attention and a top-notch education. He cared deeply for those graduating and would help them find employment in their respective fields.

Fred was a real champion of value-added agriculture and worked hard to get farmers in South Dakota to understand how to capture larger profits from adding value to the raw goods produced on their operations.

Losing Fred is a huge loss to South Dakota and SDSU, and I personally know that he struggled with the decision to leave SDSU for Kansas State. But, in the end, I think it is his undying commitment to agriculture that led him to decide that Kansas State was the right move. His kind of leadership and character is exactly what the agricultural community needs to evolve and survive in the future. I wish nothing but the best for him and his family. It is with great honor that I share his impressive accomplishments with my colleagues.●

TRIBUTE TO JANE HINTON HART

● Mr. MILLER. Mr. President, today I honor a fellow Georgian, Mrs. Jane Hinton Hart. Mrs. Hart is retiring after more than 30 years of service in the U.S. Government. She was raised in Thomson, GA, where she graduated from Thomson High School in 1966, and Stephen F. Austin State University in Nacogdoches, TX, in 1970. She returned to Georgia and taught school in Augusta from January 1970 to June 1973.

Mrs. Hart began her Federal Government career on the staff of former Senator Sam Nunn, where she served the people of Georgia from 1973 to 1991. During her 18 years of service in Senator Nunn's office, Mrs. Hart worked the full spectrum of positions found in a congressional office. She began as a staff assistant and became a senior legislative assistant to the Senator and the liaison between the Senator's office and the military installations in the State of Georgia.

In 1991, Mrs. Hart moved from the Hill to the Office of Legislative Affairs, Headquarters Marine Corps, where she has served four commandants, Generals Mundy, Krulak, Jones, and Hagee. As a legislative specialist, she has been responsible for reviewing and researching numerous legislative issues to determine their impact on the U.S. Marine Corps. She has provided guidance and drafted legislative proposals for inclusion in the Department of Defense omnibus legislative packages. She works closely with the Legislative Affairs Offices of the Department of the Navy and Department of Defense.

In addition to Mrs. Hart's Government service, she has been an active

education advocate through various PTAs in Arlington County, VA, a volunteer in the Boy Scouts of America, a Sunday school teacher, and she reads monthly at a homeless shelter. She will complete her masters in reading education this fall and plans to return to the classroom and teach.

I wish Mrs. Hart, her husband, Jim, and their son, John, all the best. I am delighted that she came here from Georgia seeking to serve our Nation, and has done so with distinction for more than 30 years. Georgia is proud of Mrs. Hart's dedication, hard work and patriotism, and I wish for her many more years of continuing success.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, during the adjournment of the Senate, on May 24, 2004, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 2092. An act to address the participation of Taiwan in the World Health Organization.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS) on today, June 1, 2004.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7671. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Spring Viremia of Carp; Payment of Indemnity" (Doc. No. 02-091-1) received on May 25, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7672. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal

Bunt; Regulated Areas" (Doc. No. 04-038-1) received on May 25, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7673. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extension of Tolerance for Emergency Exemptions (Multiple Chemicals)" (FRL7358-7) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7674. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerance" (FRL7348-1) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7675. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ultramarine Blue; Exemption from the Requirement of a Tolerance" (FRL7357-6) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7676. A communication from the Assistant Director, Directives and Regulations Branch, Forest Service, transmitting, pursuant to law, the report of a rule entitled "Sale and Disposal of National Forest System Timber; Timber Sale Contracts, Modification of Contracts" (RIN0596-AC16) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7677. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Environmental Quality Incentives Program (EQIP) in order to improve the access of this program to Native American Indian Tribes; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7678. A communication from the Acting Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act relative to the Civilian Personnel Operations Center Management Agency, Aberdeen Proving Ground, Maryland, case number 04-05; to the Committee on Appropriations.

EC-7679. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Future Aircraft Carrier Program; to the Committee on Armed Services.

EC-7680. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the adequacy of the beryllium industrial base; to the Committee on Armed Services.

EC-7681. A communication from the Acting Assistant Secretary of the Army for Financial Management and Comptroller, Department of the Army, transmitting, pursuant to law, the Army's Annual Financial Statement report for fiscal year 2003; to the Committee on Armed Services.

EC-7682. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of the authorization of the wearing of the insignia of a higher grade; to the Committee on Armed Services.

EC-7683. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC-7684. A communication from the Deputy Chief of Naval Operations, Department

of the Navy, Department of Defense, transmitting, pursuant to law, a report relative to the Most Efficient Organization for the Public Works Center Norfolk, VA, Detachments Philadelphia and Mechanicsburg, PA, and Earle, NJ; to the Committee on Armed Services.

EC-7685. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 69 FR 21973" (44 CFR Part 67) received on May 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7686. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 69 FR 21969" (44 CFR Part 65) received on May 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7687. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations;" (69 FR 21966) received on May 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7688. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries" (ID042604D) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7689. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Alaska Plaice in the Bering Sea and Aleutian Islands Management Area (BSAI)" received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7690. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Revise Port Codes in Tables 14a and 14b to 50 CFR Part 679" (RIN0648-AR07) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7691. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (RIN2126-AA09) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7692. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements" (RIN2126-AA08) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere Falcon 900 and Falcon 900 EX

Series Airplanes; Doc. No. 2003-NM-51" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6-80C2 Series Turbofan Engines; Doc. No. 2003-NE-46" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717-200 Airplanes; Doc. No. 2002-NM-212" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Mark 0070 and 0100 Series Airplanes; Doc. No. 2002-NM-256" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4-600 and A300 C4-600 Series Airplanes; Doc. No. 2003-NM-80" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Aircraft Engines CT7 Series Turbo-prop Engines; Doc. No. 99-NE-48" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-100, 100B, 100BSUD, 200B, 200C, 200F, 300, 747SE, and 747SP Series Airplanes Equipped with Pratt and Whitney JT9D-3, 7, 70, and 7R4G2 Series Engines; Doc. No. 2002-NM-207" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes; Doc. No. 2003-NM-47" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 15, DC 9 13, and DC 9 32 Airplanes" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF 340A and 340B Series Airplanes, Doc. No. 2003-NM-25" (RIN2120-AA64)

received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model C1 600-2B19; Doc. No. 2003-NM157" (RIN2120-AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Florida (for himself and Mrs. FEINSTEIN):

S. 2481. A bill to require that notices to consumers of health and financial services include information on the outsourcing of sensitive personal information abroad, to require relevant Federal agencies to prescribe regulations to ensure the privacy and security of sensitive personal information outsourced abroad, to establish requirements for foreign call centers, and for purposes; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2482. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to prohibit the dumping of dredged material in certain bodies of water; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 2483. A bill to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. SPECTER (by request):

S. 2484. A bill to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses; to the Committee on Veterans' Affairs.

By Mr. SPECTER (by request):

S. 2485. A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself and Ms. MURKOWSKI) (by request):

S. 2486. A bill to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration or benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself and Mr. WARNER):

S. Res. 368. A resolution commending the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 44, a bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes.

S. 875

At the request of Mr. DODD, his name was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1335

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1358

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1358, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the pre-

scription drug benefits offered to enrollees under the plan generally.

S. 1380

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1411

At the request of Mr. DODD, his name was withdrawn as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 1411, *supra*.

S. 1428

At the request of Mr. MCCONNELL, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1666

At the request of Mr. COCHRAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Nevada (Mr. REID) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1873

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 1939

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1939, a bill to require the Secretary of Health and Human Services to ensure that the public is provided adequate notice and education on the effects of exposure to mercury through the development of health advisories and by requiring that such appropriate advisories be posted, or made readily available, at all businesses that sell fresh, frozen, and canned fish and seafood where the potential for mercury exposure exists.

S. 2032

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2032, a bill to provide assistance and security for women and children in Afghanistan and for other purposes.

S. 2212

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 2324

At the request of Mr. CHAMBLISS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2324, a bill to extend the deadline on the use of technology standards for the passports of visa waiver participants.

S. 2351

At the request of Ms. COLLINS, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2351, *supra*.

S. 2363

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. ENSIGN) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2425

At the request of Mr. BYRD, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2434

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. REID) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2434, a bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, DC, and for other purposes.

S. 2462

At the request of Mr. WARNER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2462, a bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages.

S. 2480

At the request of Mr. GRASSLEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2480, a bill to amend title 23, United States Code, to research and prevent drug impaired driving.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 8

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week."

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 106

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Con. Res. 106, a concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

S. RES. 357

At the request of Mr. SUNUNU, his name was added as a cosponsor of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as "National Health Center Week."

S. RES. 365

At the request of Mr. BROWNBACK, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 365, a resolution expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China.

AMENDMENT NO. 3196

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 3196 intended to be proposed to S. 2400, an original bill to au-

thorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida (for himself and Mrs. FEINSTEIN):

S. 2481. A bill to require that notices to consumers of health and financial services include information on the outsourcing of sensitive personal information abroad, to require relevant Federal agencies to prescribe regulations to ensure the privacy and security of sensitive personal information outsourced abroad, to establish requirements for foreign call centers, and for purposes; to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President, I rise today to express my deep concern about an issue that illustrates the continuing erosion of Americans' privacy rights. My concern is related to the practice of outsourcing. When U.S. companies outsource sensitive customer information for processing overseas, they may be outsourcing our privacy rights along with it.

We all know that recently it has become popular for American companies to send internal paperwork to be done in other countries, by foreign companies.

When a U.S. company allows a foreign company to process customer data, the foreign company may be given access to the most sensitive types of customer information. Our health records, bank account numbers, social security numbers, tax forms, and credit card numbers are now being shipped abroad—without the knowledge of the customer and beyond the reach of U.S. privacy laws.

This phenomenon means that consumers are almost powerless to stop foreign scam artists from misusing their sensitive information. What types of abuses can occur under this scenario?

In one recent shocking example, a U.S. hospital hired a medical transcriber in Pakistan through a subcontractor to work with sensitive patient health information. Later, the foreign worker claimed that she had not been paid for her work.

So, you know what she did? She threatened to post patients' medical records online unless she was paid. Luckily, she got her paycheck and doesn't seem to have posted anything online.

But this situation shows us the potential for gross violations of consumer privacy. The U.S. hospital said that it never even knew that the foreign transcriber had been hired through a subcontractor and it therefore had never bound her contractually to follow any privacy or security standards.

Another potential abuse of offshoring sensitive customer data is identity theft. The illegal theft of someone's identity is a profoundly disturbing and costly problem in this information age.

Moreover, illegal misuse of sensitive information can also have national security implications. For example, data about some of our Nation's power grids allegedly has been outsourced to companies overseas. Imagine the harm that terrorists might do if they got hold of that type of confidential information.

As our global economy expands at such a rapid pace, we simply cannot tolerate the outsourcing of Americans' privacy rights overseas. We need to be proactive on this potentially explosive issue. Make no mistake, the Pakistani transcriber incident is not the first or the last time that sensitive customer information becomes endangered in a foreign country. The time to act is now, instead of reacting only after our privacy rights are further eroded.

In light of these circumstances, today I am introducing a bill—along with Senator FEINSTEIN—that begins to address these privacy and security concerns. The bill is called the INFO Act, which is short for The Increasing Notice of Foreign Outsourcing Act.

The INFO Act is designed to help ensure that sensitive consumer information is protected and that U.S. companies can be held accountable for breakdowns in the security of customer information.

Specifically, the INFO Act that we are introducing today would require the following things: First, U.S. companies in the health care industry and the financial industry must tell their customers that their sensitive health information and financial information is being processed by companies in foreign nations, where privacy safeguards may be less stringent.

Second, U.S. companies in the health care industry and the financial industry must promise their customers that they are complying with U.S. privacy laws, which are designed to keep sensitive customer information secure even when it is outsourced.

Third, U.S. companies in the health care industry and the financial industry must make sure that each foreign company that is handling sensitive customer information has agreed by contract to meet U.S. privacy standards and to keep sensitive customer information secure.

Fourth, U.S. companies may examine the business operations of the foreign company to make sure the foreign company is meeting privacy standards and is keeping sensitive customer information secure.

Fifth, a foreign company must notify the U.S. company of any data security breach. The U.S. company must then notify the U.S. regulatory agency, which can then hold the U.S. company accountable for the actions of the foreign company.

Finally, an employee of a foreign call center must tell a U.S. customer where

the employee is located, if the U.S. customer asks for this information.

I strongly believe that we need to act now, before the privacy issues raised by offshoring begin to explode.

Let me emphasize that I see this bill as both pro-consumer and pro-business. Consumers will be informed about how their sensitive information is handled and they can learn when security breaches occur. Additionally, foreign companies that handle customer data will be held accountable to the U.S. company that gives them their work. And U.S. companies will be upfront in informing their customers about offshoring sensitive data before customer backlash occurs.

With this sort of system in place, we hopefully can reduce the chances of customer data being misused, and allow U.S. companies to play on a level playing field where all interested parties know the rules of the game.

I have a history of trying to solve consumer issues in ways that are not needlessly burdensome to U.S. businesses. That is why my office, as well as Senator FEINSTEIN's office, has met several times with industry representatives during the development of this bill.

I was interested to find ways for businesses to protect consumer privacy rights without having to sharply raise prices or limit products and services. I believe that the INFO Act has achieved those goals.

Consumer privacy has always been one of my top priorities. Now, as always, I look forward to working with all interested parties to resolve this consumer privacy issue in a timely and effective manner.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Increasing Notice of Foreign Outsourcing Act".

SEC. 2. HEALTH PRIVACY.

(a) FOREIGN-BASED BUSINESS ASSOCIATE.—In this section, the term "foreign-based business associate" means a business associate, as defined under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), whose operation is based outside the United States and that receives protected health information and processes such information outside the United States.

(b) NOTICES.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall revise the regulations prescribed pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) to require a covered entity (as defined under such regulations and referred to in this section as a "covered entity"), that outsources protected health information (as

defined under such regulations and referred to in this section as "protected health information"), outside the United States to include in such entity's notice of privacy protections the following:

(A) The following information in simple language:

(i) Notification that the covered entity outsources protected health information to foreign-based business associates.

(ii) Any risks and consequences to the privacy and security of protected health information that arise as a result of the processing of such information outside the United States.

(iii) Additional measures the covered entity is taking to protect the protected health information outsourced for processing outside the United States.

(B) A certification that the covered entity has taken reasonable steps to ensure that the handling of protected health information will be done in compliance with applicable laws in all instances where protected health information is processed outside the United States, including the reasons for the certification.

(2) EFFECTIVE DATE.—A covered entity shall be required to include in such entity's notice of privacy protections the information and certification described in paragraph (1) for notices issued on or after the date on which the Secretary prescribes regulations pursuant to this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier. Nothing in this subsection shall be construed to require a covered entity to reissue notices issued before the date on which the Secretary prescribes regulations pursuant to this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier, to include in such notices the information and certification described in paragraph (1).

(c) RULEMAKING.—

(1) IN GENERAL.—

(A) REGULATORY AUTHORITY.—The Secretary shall—

(i) prescribe such regulations consistent with paragraph (2) as may be necessary to carry out this section with respect to foreign outsourcing; and

(ii) determine the appropriate penalties to impose upon a covered entity for a violation of a provision of this subsection or subsection (b).

(B) PROCEDURES AND DEADLINES.—The regulations described in subparagraph (A) shall be prescribed in accordance with all applicable legal requirements and shall be issued in final form not later than 365 days after the date of enactment of this Act.

(2) NECESSARY REGULATIONS.—The Secretary shall prescribe regulations—

(A) requiring that a contract between a covered entity and such entity's foreign-based business associate contain a provision that provides such entity with the right to audit such associate, as needed, to monitor performance under the contract; and

(B) requiring that foreign-based business associates and subcontractors of covered entities be contractually bound by Federal privacy standards and security safeguards.

(d) BREACH OF SECURITY.—

(1) BREACH OF SECURITY OF THE SYSTEM.—In this subsection, the term "breach of security of the system"—

(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to protected health information maintained by the covered entity, foreign-based business associate, or subcontractor; and

(B) does not include good faith acquisition of protected health information by an employee or agent of the covered entity, foreign-based business associate, or subcontractor for the purposes of the entity, associate, or subcontractor, if the protected health information is not used or subject to further unauthorized disclosure.

(2) DATABASE SECURITY.—

(A) COVERED ENTITY.—A covered entity—

(i) that owns or licenses electronic data containing protected health information shall, following the discovery of a breach of security of the system containing such data, notify the Secretary of such breach; or

(ii) that receives a notification under subparagraph (B) of a breach, shall notify the Secretary of such breach.

(B) OTHER PARTIES.—

(i) THIRD PARTY.—The Secretary shall require that a contract between a covered entity and such entity's foreign-based business associate contain a provision that if the foreign-based business associate (or any subcontractor of such associate) owns or licenses electronic data containing protected health information that was provided to the associate through the covered entity, the associate (or subcontractor) shall, following the discovery of a breach of security of the system containing such data—

(I) notify the entity from which it received the protected health information of such breach; and

(II) provide a description to the entity from which it received the protected health information of any corrective actions taken to guard against future security breaches.

(ii) NOTIFICATION PROCESS.—Each entity that receives a notification under clause (i) shall notify the entity from which it received the protected health information of such breach until the notification reaches the foreign-based business associate who shall, in turn, notify the covered entity of such breach.

(C) TIMELINESS OF NOTIFICATION.—All notifications required under subparagraphs (A) and (B) shall be made as expeditiously as possible and without unreasonable delay following—

(i) the discovery of a breach of security of the system; and

(ii) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(3) EFFECTIVE DATE.—This subsection shall take effect on the expiration of the date that is 365 days after the date of enactment of this subsection.

SEC. 3. FINANCIAL PRIVACY.

(a) FOREIGN-BASED BUSINESS.—Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

“(12) FOREIGN-BASED BUSINESS.—The term ‘foreign-based business’ means a non-affiliated third party whose operation is based outside the United States and that receives nonpublic personal information and processes such information outside the United States.”.

(b) FINANCIAL NOTICES.—

(1) IN GENERAL.—Section 503(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)) is amended—

(A) in paragraph (3), by striking “and” after the semicolon;

(B) in paragraph (4), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(5) if the financial institution outsources nonpublic personal information outside the United States—

“(A) information informing the consumer in simple language—

“(i) that the financial institution outsources nonpublic personal information to foreign-based businesses;

“(ii) of any risks and consequences to the privacy and security of an individual's nonpublic personal information that arise as a result of the processing of such information outside the United States; and

“(iii) of the additional measures the financial institution is taking to protect the nonpublic personal information outsourced for processing outside the United States; and

“(B) a certification that the financial institution has taken reasonable steps to ensure that the handling of nonpublic personal information will be done in compliance with applicable laws in all instances where nonpublic personal information is processed outside the United States, including the reasons for the certification.”.

(2) EFFECTIVE DATE.—A financial institution shall include in such institution's disclosure the information and certification described in the amendment made by paragraph (1)(C) for disclosures provided on or after the date on which the regulatory agency that has jurisdiction over such institution pursuant to section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) prescribes regulations pursuant to the amendments made by this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier. Nothing in this subsection, or the amendments made by this subsection, shall be construed to require a financial institution to reissue disclosures provided before the date on which the regulatory agency that has jurisdiction over such institution pursuant to section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) prescribes regulations pursuant to the amendments made by this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier, to include in such disclosures the information and certification described in the amendment made by paragraph (1)(C).

(c) RULEMAKING.—Section 504 of the Gramm-Leach-Bliley Act (15 U.S.C. 6804) is amended by adding at the end the following:

“(c) RULEMAKING ON FOREIGN OUTSOURCING.—

“(1) IN GENERAL.—

“(A) REGULATORY AUTHORITY.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission (referred to in this subsection as the ‘regulatory agencies’) shall—

“(i) prescribe such regulations consistent with paragraph (2) as may be necessary to carry out this subtitle with respect to foreign outsourcing, with respect to the financial institutions subject to their jurisdiction under section 505; and

“(ii) determine the appropriate penalties to impose upon financial institutions for a violation of a provision of this subsection.

“(B) COORDINATION, CONSISTENCY, AND COMPARABILITY.—The regulatory agencies shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.

“(C) PROCEDURES AND DEADLINES.—The regulations described in subparagraph (A) shall be prescribed in accordance with all applicable legal requirements and shall be issued in final form not later than 365 days after the date of enactment of this subsection.

“(2) NECESSARY REGULATIONS.—The regulatory agencies shall prescribe regulations—

“(A) requiring that a contract between a financial institution and such institution's foreign-based business contain a provision that provides such institution with the right

to audit such business, as needed, to monitor performance under the contract; and

“(B) requiring that foreign-based businesses and subcontractors of financial institutions be contractually bound by Federal privacy standards and security safeguards.”.

(d) BREACH OF SECURITY.—Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended by adding at the end the following:

“(f) BREACH OF SECURITY.—

“(1) BREACH OF SECURITY OF THE SYSTEM.—In this subsection, the term ‘breach of security of the system’—

“(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to nonpublic personal information maintained by the financial institution, foreign-based business, or subcontractor; and

“(B) does not include good faith acquisition of nonpublic personal information by an employee or agent of the financial institution, foreign-based business, or subcontractor for the purposes of the institution, business, or subcontractor, if the nonpublic personal information is not used or subject to further unauthorized disclosure.

“(2) DATABASE SECURITY.—

“(A) FINANCIAL INSTITUTION.—A financial institution—

“(i) that owns or licenses electronic data containing nonpublic personal information shall, following the discovery of a breach of security of the system containing such data, notify the entity under which the institution is subject to jurisdiction under section 505 of such breach; or

“(ii) that receives a notification under subparagraph (B) of a breach, shall notify the entity under which the institution is subject to jurisdiction under section 505 of such breach.

“(B) OTHER PARTIES.—

“(i) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission shall require, with respect to the financial institutions subject to their jurisdiction under section 505, that a contract between a financial institution and such institution's foreign-based business contain a provision that if the foreign-based business (or any subcontractor of such business) owns or licenses electronic data containing nonpublic personal information that was provided to the business through the financial institution, the business (or subcontractor) shall, following the discovery of a breach of security of the system containing such data—

“(I) notify the entity from which it received the nonpublic personal information of such breach; and

“(II) provide a description to the entity from which it received the nonpublic personal information of any corrective actions taken to guard against future security breaches.

“(ii) NOTIFICATION PROCESS.—Each entity that receives a notification under clause (i) shall notify the entity from which it received the nonpublic personal information of such breach until the notification reaches the foreign-based business who shall, in turn, notify the financial institution of such breach.

“(C) TIMELINESS OF NOTIFICATION.—All notifications required under subparagraphs (A) and (B) shall be made as expeditiously as possible and without unreasonable delay following—

“(i) the discovery of a breach of security of the system; and

“(ii) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

“(3) EFFECTIVE DATE.—This subsection shall take effect on the expiration of the date that is 365 days after the date of enactment of this subsection.”.

SEC. 4. FOREIGN CALL CENTERS.

(a) FOREIGN CALL CENTER DEFINED.—In this section, the term “foreign call center” means a foreign-based service provider or a foreign-based subcontractor of such provider that—

(1) is unaffiliated with the entity that utilizes such provider or subcontractor; and

(2) provides customer-based service and sales or technical assistance and expertise to individuals located in the United States via the telephone, the Internet, or other telecommunications and information technology.

(b) REQUIREMENT.—A contract between a foreign call center and an entity that utilizes such foreign call center to initiate telephone calls to, or receive telephone calls from, individuals shall include a requirement that each employee of the foreign call center disclose the physical location of such employee upon the request of such individual.

(c) CERTIFICATION REQUIREMENT.—An entity described in subsection (b) shall submit an annual certification to the Federal Trade Commission on whether or not the entity and its subsidiaries, and the foreign call center employees and its subsidiaries, have complied with subsection (b). Such annual certifications shall be made available to the public.

(d) NONCOMPLIANCE.—An entity described in subsection (b) or its subsidiaries that violates subsection (b) shall be subject to such civil penalties as the Federal Trade Commission prescribes under subsection (e).

(e) REGULATIONS.—Not later than 365 days after the date of enactment of this Act, the Federal Trade Commission shall prescribe such regulations as are necessary for effective monitoring and compliance with this section. Such regulations shall include appropriate civil penalties for noncompliance with this section.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2482. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to prohibit the dumping of dredged material in certain bodies of water; to the Committee on Environment and Public Works.

Mrs. CLINTON. Mr. President, I rise today to introduce the Long Island Sound Protection Act on behalf of myself and Senator SCHUMER. This legislation, which Congressman BISHOP will be introducing in the House, would ensure that contaminated dredge materials are not dumped in Long Island Sound.

The need for this legislation is that the U.S. Environmental Protection Agency is finalizing the process of designating several sites in Long Island Sound as long term disposal sites under the Marine Protection, Research, and Sanctuaries Act. Once this designation is complete, the sites will be open to receive dredged material indefinitely.

I recognize that there has been and will continue to be a need to dredge harbors and marinas around the Sound to support commerce and navigation. But I am concerned that EPA has not

looked hard enough at alternatives to dumping in the sound. While not all dredged materials are contaminated, we know that some are contaminated with heavy metals and other toxins. In my view, we should not use the Sound as a dumping ground for those materials.

We must look more thoroughly for alternatives to dumping contaminated waste in Long Island Sound. We need careful planning that involves a strong role for the State of New York in this process. That is why this legislation is so important—we cannot let short term economics overtake long term environmental concerns.

The Long Island Sound Protection Act would require the Corps of Engineers and the EPA to work with other federal agencies and the states of New York and Connecticut to develop a dredged material management plan (DMMP) that would govern dumping in the sound.

The Long Island Sound Protection Act would require the DMMP to meet a set of objectives, including: Identifying the major sources and quantities of dredge material and contamination that require disposal; determining management actions that are to be taken to reduce sediment and contaminant loading of dredged areas; thoroughly assessing alternative locations, treatment technologies and beneficial uses for dredged material; ensuring that dumping is the disposal option of the last resort after all other options have been exhausted; securing alternative methods of disposal of contaminated dredge materials, including decontamination technologies, and alternative uses of materials, including upland disposal, containment, beach nourishment, marsh restoration, habitat construction, and other beneficial reuses; and confirming the specific roles of Federal, State, and local agencies with respect to various aspects of dredged material management.

The Long Island Sound Protection Act also would stipulate that no dumping can occur in Long Island Sound, except in accordance with a DMMP that has been approved by the Governors of New York and Connecticut.

In addition, the bill would provide for public hearings in both New York and Connecticut during the development of the DMMP.

To me this is a common sense solution to the current dredge disposal problem. It would enable both New York and Connecticut to play a stronger role in determining what we put in the Sound. And it would provide for a much harder look at upland disposal and beneficial reuse as alternatives to dumping in the Sound.

I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Long Island Sound Protection Act”.

SEC. 2. PROHIBITION ON DUMPING OF DREDGED MATERIAL.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by striking subsection (f) and inserting the following:

“(f) PROHIBITION ON DUMPING OF DREDGED MATERIAL.—

“(1) DEFINITIONS.—In this subsection:

“(A) COVERED BODY OF WATER.—The term ‘covered body of water’ means—

“(i) Long Island Sound;

“(ii) Fisher’s Island Sound;

“(iii) Block Island Sound;

“(iv) Peconic Bay; and

“(v) any harbor or tributary of a body of water described in any of clauses (i) through (iv).

“(B) COVERED PROJECT.—The term ‘covered project’ means—

“(i) any Federal dredging project (or any project conducted for a Federal agency pursuant to Federal authorization);

“(ii) a dredging project carried out by a non-Federal entity that results in the production of more than 25,000 cubic yards of dredged material; and

“(iii) any of 2 or more dredging projects carried out by 1 or more non-Federal entities in a covered body of water, simultaneously or sequentially within a 180-day period, that result, in the aggregate, in the production of more than 25,000 cubic yards of dredged material.

“(C) PLAN.—The term ‘plan’ means the dredged material management plan required under paragraph (5).

“(2) PROHIBITION.—No dredged material from any covered project shall be dumped, or transported for the purpose of dumping, into any covered body of water unless and until the dredged material is determined by the Administrator—

“(A) to have, or to cause (including through bioaccumulation), concentrations of chemical constituents that are not greater than those concentrations present in the water column, sediments, and biota of areas proximate to, but unaffected by, the proposed disposal site; and

“(B) to meet all requirements under this title (including the trace contaminant provision under section 227.6 of title 40, Code of Federal Regulations (or a successor regulation), and requirements under other regulations promulgated under section 108).

“(3) DESIGNATION OF SITES.—No dredged material shall be dumped, or transported for the purpose of dumping, into any covered body of water except—

“(A) at a site designated by the Administrator in accordance with section 102(c); and

“(B) upon a determination by the Administrator, following approval of the plan required under paragraph (5)(F), that no feasible alternative to ocean disposal, including sediment remediation, beneficial reuse, and land-based alternatives, is available prior to the time of designation.

“(4) RELATIONSHIP TO OTHER LAW.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), this title applies to each covered body of water.

“(B) EXCEPTION.—No waiver under section 103(d) shall be available for the dumping of dredged material in any covered body of water.

“(5) DREDGED MATERIAL MANAGEMENT PLAN.—

“(A) IN GENERAL.—Before designation of any dredged material disposal site in a covered body of water, the Secretary and the Administrator, in consultation with the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Coast Guard, and the States of Connecticut and New York, shall—

“(i) develop a dredged material management plan for the management of all dredged sediment in the covered bodies of water; and

“(ii) submit the plan to Congress and the Governors of the States of Connecticut and New York.

“(B) OBJECTIVES.—The objectives of the plan shall be—

“(i) to identify sources, quantities, and the extent of contamination of dredged material that requires disposal;

“(ii) to determine management actions that are to be taken to reduce sediment and contaminant loading of dredged areas;

“(iii) to thoroughly assess alternative locations, treatment technologies, and beneficial uses for dredged material;

“(iv) to ensure that dumping is the disposal option of last resort for dredged material and is used only after all other options have been exhausted;

“(v) to secure—

“(I) alternative methods of disposal of dredged materials, including decontamination technologies; and

“(II) alternative uses of materials, including upland disposal, containment, beach nourishment, marsh restoration, habitat construction, and other beneficial reuses; and

“(vi) to confirm the specific roles of Federal, State, and local agencies with respect to various aspects of dredged material management.

“(C) REQUIREMENTS.—The plan shall include environmental, economic, and other analysis required to meet the objectives listed in subparagraph (B), including—

“(i) an analysis of strategies to reduce sediment loading of harbors and navigation areas;

“(ii) an analysis of sources of sediment contamination, including recommendations for management measures to limit or reduce those contamination sources;

“(iii) an analysis of options for reducing dredging needs through modification of navigation strategies;

“(iv) an analysis of decontamination technologies, including subsequent alternative uses of decontaminated materials (such as upland disposal, containment, beach nourishment, marsh restoration, and habitat construction); and

“(v) a program for use of alternative methods of disposal and use of dredged material, including alternatives to dumping or dispersal in a covered body of water.

“(D) PUBLIC INPUT.—The Secretary and the Administrator shall—

“(i) during the development of the plan, hold in the States of Connecticut and New York a series of public hearings on the plan; and

“(ii) append to the plan a summary of the public comments received.

“(E) SUPPORT.—Each of the Federal agencies referred to in subparagraph (A) shall provide such staff support and other resources as are necessary to carry out this paragraph.

“(F) APPROVAL BY CONNECTICUT AND NEW YORK.—

“(i) IN GENERAL.—Not later than 60 days after the date of receipt of the plan, the Governors of the States of Connecticut and New York shall notify the Secretary and the Administrator of whether the States approve or disapprove the plan.

“(ii) DUMPING OF DREDGED MATERIAL.—No dredged material from a covered project may be dumped, or transported for the purpose of dumping, in any covered body of water unless the dredged material—

“(I) conforms to a plan that has been approved by the Governors of the States of Connecticut and New York; and

“(II) is to be dumped in a dredged material disposal site designated by the Administrator under this title.

“(iii) FINALITY.—No dredged material disposal plan shall become final until the plan has been approved by the States of Connecticut and New York under clause (i).

“(iv) PREVIOUSLY DESIGNATED SITES.—No dredged material disposal site in any covered body of water that was designated before the date of enactment of this clause shall be used for dumping of dredged material from a covered project until the plan has been approved by the States of Connecticut and New York under clause (i).

“(G) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$5,000,000 for each of fiscal years 2005 and 2006.”

By Mr. SPECTER:

S. 2483. A bill to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation I am introducing today to provide a cost-of-living, COLA, adjustment for certain veterans' benefits programs. This COLA adjustment would affect payments made to nearly 3 million Department of Veterans Affairs, VA, beneficiaries, and would be reflected in beneficiary checks that are received in January 2005, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment would be compensation paid to disabled veterans, and dependency and indemnity compensation, DIC, payments made to the surviving spouses, minor children and other dependants of persons who died in service, or who died after service as a result of service-connected injuries or diseases.

The President's budget anticipates inflation to be at a 1.3-percent level at the close of this year as measured by the consumer price index, CPI, published by the Department of Labor's Bureau of Labor Statistics. If inflation is held to the 1.3-percent level, that will be the level of COLA adjustment under this legislation since it ties the increase directly to the CPI increase as measured by the Department of Labor. Whatever the CPI increase eventually turns out to be, however, veterans' and survivors' benefits payments must be protected by being increased by a like amount. The Senate has already concurred with that judgment with passage of a budget resolution which as-

sumes an increase equal to the CPI, and which sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I ask my colleagues to support this vital legislation.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2004”.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made

under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

By Mr. SPECTER (by request):

S. 2484. A bill to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2484, a proposed bill to simplify and improve pay provisions for physicians and dentists, and to authorize alternate work schedules and executive pay for nurses. The Secretary of Veterans Affairs submitted this proposed legislation to the President of the Senate by letter dated July 18, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. In this case, I delayed introduction of this measure so that certain provisions of the proposed legislation, which proposes extensive changes in the physician pay policies of the Department of Veterans Affairs (VA), might be reviewed by the Committee's staff, and by potentially interested parties, prior to its introduction. I am pleased to state that many constructive ideas have been expressed, and the Committee's staff, working with the VA, the National Association of VA Physicians and Dentists, the American Federation of Government Employees, the National Federation of Federal Employees, and other representatives of VA's labor force, have identified prospective modifications to the proposed bill's text which, all appear to agree, would represent improvements over the language of the legislation forwarded to the Senate in July 2003.

Even so, the bill I introduce today is the bill which the Secretary of Veterans Affairs sent to the Committee in July 2003. I have introduced that bill so that the original "by request" legislation might be available to the Senate, and to the public, as part of the public record. As is always my policy with respect to any such "by request" legislation, I reserve the right to oppose the provisions of, as well as any amendment to, this legislation. Indeed, as I have indicated, the Committee's staff, with the assistance of VA and other interested parties, is already working on modifications to the bill as proposed by the administration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and a section-by-section analysis which accompanied it.

There being no objection, the material ordered to be printed in the RECORD, as follows:

S. 2484

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. IMPROVEMENT AND SIMPLIFICATION OF PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) Chapter 74 is amended—
(1) In section 7404(b)—
(A) by striking "(1)" after "(b)".
(B) by striking the list of position grades under the caption, "PHYSICIAN AND DENTIST SCHEDULE" and inserting in lieu thereof the following:

"Physician grade.
Dentist grade."
(C) by striking paragraph (2) in its entirety.

(2) In section 7404(c) by striking "special".
(3) By striking Subchapter III in its entirety and inserting in lieu thereof the following new sections:

Subchapter III—Pay for Physicians and Dentists

§ 7431. Pay authority.

(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall establish and periodically adjust the rates of pay for physicians and dentists based upon the factors specified in subsection (b). Total pay shall be benchmarked to representative salaries of non-Department physicians, dentists, and health care clinician-executives.

(b) Pay for physicians and dentists employed in the Veterans Health Administration shall have three components:

(1) Base pay.—This shall be a uniform pay band applicable nationwide. The minimum rate shall be the maximum rate for Chief grade in the Veterans Health Administration Physician and Dentist Pay Schedule in effect on the day before the date of enactment of this Act. The maximum rate may not exceed the rate of basic pay authorized by section 5316 of title 5 for Level V of the Executive Schedule. The Secretary shall adjust annually the minimum rate by the same percentage as the adjustment under section 5303 of title 5 in the rates of pay for the General Schedule, and the maximum rate in accordance with section 5318 of title 5. Administration facilities, under regulations prescribed by the Secretary, may set individual base pay anywhere within the pay band.

(2) Market pay.—This shall be a variable pay band based on geographic area, specialty, assignment, personal qualifications, and individual experience, and shall be established and adjusted locally in accordance with regulations prescribed under subsection (c). Administration facilities will set individual market pay in accordance with regulations prescribed by the Secretary. The Under Secretary for Health shall periodically review and recommend to the Secretary adjustments to the market pay band based on published healthcare workforce employment and compensation data. The Secretary may adjust the market pay band periodically based on the recommendations of the Under Secretary and in response to changing health-care labor trends.

(3) Performance pay.—

(A) There shall be a variable pay band linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives. Physicians and dentists other than those specified in subsection (f)(1) shall not be eligible for this component during the first year of appointment. The amount payable to a physician or dentist for this component may vary based on individual achievement. The performance component paid to any physician or dentist other than those specified in subsection (f)(1) will be in accordance with regulations prescribed by the Secretary and may not exceed \$10,000 in a year.

(B) In accordance with regulations prescribed by the Secretary, ten percent of the benchmarked total pay for physicians and dentists specified in subsection (f)(1) shall be linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives as a performance component. Administration facilities may set the performance pay in accordance with regulations prescribed by the Secretary.

(c) Compensation paid under this subchapter shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. Notwithstanding the preceding sentence, amounts paid for performance pay under subsection (b)(3)(A) shall not be considered pay for retirement benefits under chapters 83 and 84 of title 5, United States Code.

(d) Any decrease in pay that results from an adjustment to the market or performance component of a physician's or dentist's total compensation does not constitute an adverse action.

(e) In no case may the total amount of compensation paid to a physician or dentist under this title in any one year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3, United States Code.

(f)(1) COVERED POSITIONS.—This subsection applies to physicians and dentists in the following positions: Chiefs of Staff or equivalent facility-level and Network-level clinical management positions (including Network Clinical Service Managers), facility and Network or Regional executive positions (including Network Service Line Coordinators and Medical Center/Health Care System Directors), Central Office executive positions, and such other positions under this title as the Secretary may determine in accordance with regulations prescribed in accordance with section 7434(a).

(2) Notwithstanding the special relationships of the Veterans Health Administration with affiliated institutions under section 7302, physicians and dentists serving in covered positions and receiving compensation under this subchapter may not receive any compensation on or after the date specified in regulations issued by the Secretary, through employment or contract with, or negotiate or accept any offer of employment from, any institution or other entity that is affiliated with the VA medical center to which they are assigned, or affiliated with a VA medical center which falls under their official responsibilities. This limitation shall include receiving compensation through or from practice groups or any other entities associated with the affiliated institution(s), or from entities under contract with the affiliated institution(s). Compensation includes anything of monetary value, including but not limited to honoraria, salary, and any fringe benefits such as: tuition waiver, insurance protection, contributions to a retirement fund, payment for books, below-

market interest loans, or employee discounts. Nothing in this section precludes physicians and dentists in covered positions from holding uncompensated appointments as other than officer, director, or trustee with affiliated institutions in furtherance of section 7302.

(3) Subject to any conditions the Secretary may by regulation prescribe, the Secretary may, on a case-by-case basis, suspend or waive the limitation in paragraph (2) to an individual physician or dentist, when necessary and appropriate to carry out the purposes of section 7302, to assist communities or practice groups to meet medical needs which otherwise would not be met, or where the Secretary determines that suspension or waiver would be in the best interest of the United States. The Secretary shall make any suspension or waiver made pursuant to this paragraph in writing.

§ 7432. Transition to new pay system.

(a) All current special pay agreements entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. Any physician or dentist in receipt of special pay on that date shall continue to be compensated as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter.

(b) Physicians and dentists appointed or reassigned on or after the date of enactment of this Act, but before implementation of this subchapter shall be compensated in accordance with sections 7404, 7405, 7433, 7434, 7435, and 7436, as applicable, in effect on the day before the date of enactment of this Act. Any such physician or dentist shall continue to be compensated at the applicable rates until such date specified in regulations issued by the Secretary implementing the new pay system. No special pay agreement will be required of any physician or dentist receiving such pay.

(c) During the period from the date of enactment of this Act through the date of implementation of this subchapter, physicians and dentists paid pursuant to this section shall be subject to paragraphs (1), (2), (4), (5), and (6) of subsection (b) of section 7438 in effect on the day before the date of enactment of this Act.

(d) The amount of pay paid under this subchapter for a physician or dentist appointed before the effective date of regulations implementing this subchapter shall be not less than the amount of base pay and special pay such physician or dentist received under this title on the day before such effective date.

(e) Special pay subject to the provisions of section 7438, as in effect before the date of enactment of this section, or subject to subsection (c), paid to Veterans Health Administration physicians and dentists appointed before the effective date of regulations implementing this subchapter and who separate after such effective date, shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5.

§ 7433. Pay for Under Secretary for Health

(a) Section 5314 of title 5 establishes the base pay for the Under Secretary for Health at Level III of the Executive Schedule.

(b) In addition to base pay under section 5314 of title 5, the Under Secretary for Health shall be eligible for Market Pay under section 7431(b)(2).

(c) TRANSITION. The current special pay agreement of the Under Secretary for Health entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. The incumbent Under Secretary for Health on the

date of enactment of this Act shall continue to receive special pay as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter. Any Under Secretary for Health appointed on or after the date of enactment of this Act, but before the date specified in regulations issued by the Secretary implementing this new subchapter, shall receive special pay in accordance with sections 7432(d)(2), 7433 and 7437(a) in effect on the day before the date of enactment of this Act.

§ 7434. Administrative provisions.

(a) After receiving the recommendations of the Under Secretary for Health, the Secretary, pursuant to the authority in section 7421(a), shall prescribe regulations implementing the physician and dentist pay system established in this new subchapter. Such regulations shall include the method for computing the pay for all physicians and dentists in the Veterans Health Administration under this title.

(b) Eighteen months after the Secretary issues regulations implementing this subchapter and annually thereafter for the next ten years, the Secretary shall provide to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the authorities under this subchapter. Each report shall include:

(1) a description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the previous fiscal year by facility and by specialty;

(2) the number of physicians and dentists who left employment with the Veterans Health Administration during the preceding year;

(3) the number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled; and

(4) an assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

In addition, the first two reports following implementation of this subchapter shall also include a comparison of staffing levels, contract expenditures, and average salary of physicians and dentists by facility and specialty for the preceding and previous fiscal years.

(b) The title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74 is amended to read as follows:

Subchapter III—Pay for Physicians and Dentists

§ 7431. Pay authority.

§ 7432. Transition to new pay system.

§ 7433. Pay for Under Secretary for Health

§ 7434. Administrative provisions.

SEC. 4. ALTERNATE WORK SCHEDULES.

(a) Chapter 74 is amended by adding a new section 7456a:

§ 7456a. Alternate work schedules.

(a) COVERAGE.—This section applies to registered nurses appointed under this chapter.

(b) 36/40 WORK SCHEDULE.—

(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent em-

ployees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled three 12-hour tours fall, or in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty, or in excess of 40 hours during an administrative workweek.

(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

(c) 7/7 WORK SCHEDULE.—

(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period.

(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period shall be subject to subparagraphs (B) and (C).

(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled seven 10-hour tours fall, or in excess of 10 hours for any day included in the regularly scheduled 70-hour tour of duty, or in excess of 80 hours during a pay period.

(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a

regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

(d) 9-MONTH WORK SCHEDULE.—The Secretary may authorize a registered nurse appointed under section 7405, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year. Such employee shall be considered a .75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on this schedule shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

(f) The Secretary shall prescribe regulations for the implementation of this section.

(b) The title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 is amended to read as follows:

Subchapter IV—Pay for Nurses and Other Health-Care Personnel

- 7451. Nurses and Other Health-Care Personnel: competitive pay.
- 7452. Nurses and other health-care personnel: administration of pay.
- 7453. Nurses: additional pay.
- 7454. Physician assistants and other health care professionals: additional pay.
- 7455. Increases in rates of basic pay.
- 7456. Nurses: special rules for weekend duty.
- 7456a. Alternate work schedules.
- 7457. On-call pay.
- 7458. Recruitment and retention bonus pay.

SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

(a) Section 7452 is amended by adding at the end thereof:

“(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary, in accordance with regulations the Secretary shall prescribe, shall pay special pay to the nurse executive at each Department health-care facility or at Central Office.

(2) Special pay paid under paragraph (1) shall be a minimum of \$10,000 and a maximum of \$25,000. The amount paid to each nurse executive shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the health-care facility, e.g., tertiary, single site or multi-site, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors the Secretary deems appropriate.

(3) Special pay paid under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.”

SEC. 6. EFFECTIVE DATE.

The amendments to title 38, United States Code, contained herein shall take effect on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

SEC. 7. ADMINISTRATIVE PROVISION.

(a) Chapter 74 is amended by adding a new section 7427:

§ 7427. Functions.

The functions assigned to the Secretary and other officers of the Department of Vet-

erans Affairs under this chapter are vested in their discretion.

THE SECRETARY OF VETERANS AFFAIRS,

Washington, DC, July 18, 2003.

Hon. RICHARD B. CHENEY,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herein a draft bill “To amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses.” We request that it be referred to the appropriate committee for prompt consideration and enactment.

The revised physician and dentist pay system and nursing provisions were included in the President's budget. They would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

ENHANCED PHYSICIAN/DENTIST PAY

This bill will greatly enhance ability of the Department of Veterans Affairs (VA) to recruit and retain the highest quality physicians and dentists to treat the Nation's veterans. It would completely revise the VA physician and dentist pay system to allow VA to adjust physician and dentist compensation levels according to market forces. The system's simplicity and flexibility would ensure that VA physician and dentist compensation levels and practices do not become outdated over time due to statutory limits. This system also would ensure that VA pay levels do not fall drastically behind while awaiting adjustment to the statutory authority. It will be a living system that adjusts to changing forces in the healthcare labor market. Generally, amounts paid under this system will be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. However, amounts paid under the performance pay component will not be considered pay for retirement benefits.

VA STAFFING CHALLENGES

The VA compensation structure for physicians and dentists has not changed since 1991. The current system is extremely complex, comprising seven or eight different special pay components in addition to basic pay. The system offers insufficient flexibility to respond to the changing competitive market for many of the medical specialties, especially for the highest paid medical subspecialties. VA is no longer able to compete for these critical subspecialties. Also, although Congress increased special pay for dentists in 2000, those increases did not bring VA pay up to the levels in private dental practice. The effects of noncompetitive pay and benefits are reflected in dramatic increases in VA's scarce specialty, fee basis, and contractual expenditures.

VA is facing a critical situation. Its compensation system for physicians and dentists is unable to respond to the demands of the current market. Severe shortages of qualified physician specialists currently exist throughout the country in specialties critical to VA's health care mission, such as Anesthesiology, Radiology, Cardiology, Urology, Gastroenterology, Oncology, and Orthopedic Surgery. These shortages have driven compensation levels dramatically upward. In these shortage specialties, VA total compensation lags behind the private or academic sectors by 35 percent or more. Such compensation gaps make recruitment almost impossible and retention becomes more difficult. This legislation will enable VA to compete for physicians in the higher-paid, critical specialties and will protect other physicians' and dentists' pay. Moreover, VA

will be able to offer to all physicians and dentists the prospect, now and in the future, of market-sensitive pay rates, with a portion of their compensation based on achievement of specific performance goals.

The problems with the current system are clear: special pay rates are fixed in statute, so over time their values are eroded by inflation, and VA pay eventually falls behind the market. The mechanisms available to VA to adjust physician and dentist pay are not able to respond to fluctuations in market levels of incomes for the different specialties. VA physician and dentist base salary rates increase by the amount of the annual national comparability adjustment that Federal employees generally receive; however, there is no increase in special pay amounts. Compensation for many specialties has risen significantly in the private sector, and VA pay cannot be increased to keep pace. VA is already paying the maximum authorized amounts for scarce specialists; there is no discretion under existing statute to pay more to retain employees.

Additionally, the current system does not adequately recognize disparities in pay among specialties. This results in serious pay compression and makes it difficult for VA to compete for the most highly paid specialists. For example, the difference between the average pay of non-Federal cardiologists vs. primary care practitioners is about 100 percent; in VA, the difference averages about 20 percent.

VA historically had been able to use the Federal benefits package as a major recruitment tool. To offset pay disparities with the private sector, VA publicized its benefits, such as the generous leave policies, opportunities to pursue research and education activities, and formal relationships with academic affiliates. More and more, though, the private sector offers comparable or better benefits. Some benefits widely available in the private sector exceed VA's offerings including paid relocation as a recruiting incentive, cafeteria-style benefit plans, payment for courses to acquire continuing medical education (CME) credits for license and board renewal, disability insurance, and retirement benefits.

Increased enrollment by veterans for Veterans Health Administration, VHA, services and the need for more comprehensive care to aging veteran patients will result in an increase in workload across the system over the next 5 years. Current trends indicate a steady decrease in the number of physicians and dentists VHA will be able to employ over the same period. This decrease will result from increased retirements, losses to the private sector, a shrinking dentist labor supply, and increasing difficulty in recruiting replacements. These factors will combine to create significant gaps between VHA's staffing needs and available resources for most physician specialties.

Without the flexibility to adjust pay in response to market pressures and improve its competitive position in recruiting and retaining physicians, the Department will be unable to meet the demands of its increasing workload. VHA will be forced to rely more heavily on scarce medical specialist contracts and fee basis care, which often cost more than using VHA physicians. It is critical that VHA be able to offer more competitive compensation for physicians and dentists.

PROPOSED NEW VA PHYSICIAN/DENTIST PAY SYSTEM

We propose a three-tiered system of base pay, market pay, and performance-based pay. VA would benchmark the sum of all three bands to the 50th percentile of the Association of American Medical Colleges (AAMC) Associate Professor compensation

(for physicians) and 75 percent of American Dental Association (ADA) net private practice income (for dentists). The base pay component would be increased by the annual comparability adjustments to Federal pay authorized by Executive Order.

First Tier—Base Pay. A uniform base pay band will apply to all positions in VHA, without grade distinctions. The proposed range is Chief grade, step 10 of the VA Physician/Dentist Schedule to Level V of the Executive Schedule, from roughly \$110,000 to \$125,000. This change will dramatically simplify hiring and employment and facilitate reassignments and position changes. Placement in this band would be based on the individual's qualifications. This band would form the floor below which no individual's pay would ever go.

Second Tier—Market Pay. The second tier, the market pay band, will be determined according to geographic area, specialty, assignment, personal qualifications and individual experience. It would be indexed to the salaries of similarly qualified non-Department physicians, dentists, and health-care executives at the entry, mid-career, and senior levels. The flexibility of this tier allows VA to keep pace with the market, both on upward and downward trends. VA would link the market band for clinicians to AAMC faculty compensation. For executives at the Chief of Staff (COS) level and above, the benchmarks would be hospital and HMO executive compensation levels. For dentists, the benchmark will be American Dental Association (ADA) net private practice income.

Third Tier—Performance Pay. The third band will be linked to performance, and would be paid for discrete achievements in quality, productivity, and support of corporate goals. The measures will be flexible and generally set locally; national objectives could also be mandated. VA facilities may authorize performance pay of up to \$10,000 for physicians and dentists below the Chief of Staff (COS) level. For managers at the COS level and above, ten percent of their benchmarked pay would be at risk, and would be payable to the extent that performance goals are met. This will address a concern that has been raised by the General Accounting Office and others of a disconnect between employees' performance and their pay.

The draft bill also would prohibit senior title 38 officials at the Chief of Staff level and above from receiving any compensation, whether from employment or contract, and from accepting any offers of future employment, from medical schools affiliated with their respective VAMCs. This prohibition will reduce the risk of potential conflicts of interest, and will ensure that the Department's interests in agreements with affiliated medical schools are adequately protected. It is highly desirable to have an independent senior clinical official at each facility. VA's implementation of the bill will increase executive compensation to a level that would offset any loss of outside income resulting from this provision. In limited circumstances, the Secretary could suspend or waive this prohibition.

DETAILS OF VA'S IMPLEMENTATION PLAN

Salary benchmarks will be set at the national level and communicated to networks. Local facilities would set pay levels within a range (± 10 percent of the benchmark) according to local circumstances. Any decision to set pay outside the 10-percent band will require higher-level approval.

Benchmark salaries will be set for each specialty and location, at entry, mid-career, and senior levels. Increments and graduated benchmarks will be set to reflect varying levels of experience and to provide for reasonable income growth over a period of time.

VA will use ADA net private practice income to set VA dentist salary benchmarks. About 93 percent of all practicing dentists are employed in private practice, so VA's primary competition in the marketplace is private practice income.

Specific amounts of each tier and the total payable for each clinician will be set at the local level. This continues the VA practice of local pay setting based on national policy (used for physician and dentist special pay, nurse locality pay system, and special salary rates):

This proposal will greatly enhance VA's ability to compete for the full range of skilled medical and dental services at the most reasonable cost. VA will be able to offer competitive compensation to full-time, part-time, or occasional staff, or pay on contract, according to the most clinically appropriate and efficient option.

This proposed physician and dentist pay aligns with the President's budget and would be effective on the first day of the first pay period on or after the date of April 1, 2004, or six months after the date of enactment.

EXAMPLES

An example of how this system will work for Internal Medicine:

VA internist with 10 years of experience, 2003: \$142,682; AAMC Associate Professor median salary, 2001-2002: \$142,000; Benchmark for VA Salary ($\pm 10\%$ of AAMC): \$127,800-156,200; Targeted Increase: \$0-\$13,518.

An example of how this system will work for Therapeutic Radiologists:

VA radiologist with 10 years of experience, 2003: \$190,682; AAMC Associate Professor median salary, 2001-2002: \$248,000; Benchmark for VA Salary ($\pm 10\%$ of AAMC): \$223,200-272,800; Targeted Increase: \$32,518-\$2,118.

An example of how this system will work for General Dentists:

VA general dentist with 10 years of experience, 2003: \$131,682; ADA net private practice income (minus benefits), 2002: \$134,928; Benchmark for VA Salary ($\pm 10\%$ of ADA): \$121,435-148,421; Targeted Increase \$0-\$16,739.

ESTIMATED COSTS/SAVINGS

VA estimates the first year costs to be \$69.42 million, with ten-year costs of \$1.59 billion. There are expected savings from productivity and the avoidance of costly specialty contracts resulting from more competitive pay. The net first year costs are \$48.47 million, with net ten-years costs of \$636.25 million. A detailed explanation is in the attached charts.

ENHANCEMENTS FOR NURSES

Over the next several years the projected increase in the number of aging veterans and increased enrollment in the VA healthcare system by veterans of all ages will increase workload across the VA healthcare system. Between 2000 and 2010, the number of veterans age 75 and above will increase from 4 million to 4.5 million and within that number, those veterans age 85 and older will triple from 422,000 to 1.3 million. Veteran enrollees in the VA healthcare system will increase from approximately 6 million in FY 2002, to approximately 7.75 million in FY 2007. This increasing and aging population of veterans will exhibit higher comorbidity and require more comprehensive care both as inpatients and as outpatients.

At the same time, national nursing leaders and healthcare organizations project a shortage of registered nurses that will be unlike any experienced in the past. Changes in healthcare delivery requiring larger numbers of professional nurses to perform increas-

ingly complex functions in hospitals and the community has heightened the demand for professional nurses. Given the aging of the current registered nurse workforce (average age nationally, 45.2 yrs., in VA, 46 yrs.), and the decreasing number of students who choose nursing as a career, the future availability of professional, registered nurses (RN) will be insufficient to meet our national healthcare needs. Negative perceptions of nursing as a profession (i.e., perceived negative work environment and pay inequities between nurses and a wide range of alternative career options that require less education and have less responsibility) have exacerbated this situation. VA already is experiencing some staffing difficulties. VA's nurse vacancy and turnover rates have greatly increased since 1998. VA must better position itself to attract the nurses to meet current and future healthcare needs.

Nurse shortages, complex healthcare environments and growing administrative demands require highly skilled nurse executives at facility and national levels with the knowledge and experience to develop responsive care delivery models in an ever-changing healthcare environment. VA nursing leadership must be highly qualified and capable of implementing cutting edge, innovative changes. Current VA pay for nurse executives is not comparable to private sector pay and perquisites. As a result, VA often is not in a position to hire and retain nurse executives with exceptional skills. The current pay structure offers little or no incentive for current VA nurse executives and potential nurse leaders to take on progressively more responsible and complex assignments. Moreover, the current VA pay structure is generally not attractive to highly skilled and experienced non-VA nurse executives.

Approximately 55 percent of all VA Nurse Executives are eligible for retirement by 2005; 69 percent will be eligible by 2008. In addition, 35 percent of all current VA registered nurses are eligible to retire by 2005. When coupled with the national shortage, this potential loss of nurses could jeopardize VA's ability to accomplish its healthcare mission.

Thus, we propose legislation enabling VA medical centers (VAMCs) to offer flexible tours, and establishing a nurse executive special pay program.

FLEXIBLE TOURS

The proposed legislation would authorize VA to offer registered nurses the following flexible tours:

(1) three 12-hour tours (36 hours) in a work-week paid as 40 hours;

(2) 7 ten-hour days/7 days off in a pay period, with pay for 80 hours;

(3) 9 months of work with 3 months off, with pay apportioned over a 12-month period.

Inflexibility in work schedules is a major cause of dissatisfaction in nurse employment. A 2000 survey conducted by the American Organization of Nurse Executives (AONE), found that after salary, the top benefit sought by nurses was "flexible scheduling and control over shifts." Providing different options for scheduling would be a way of bringing more nurses into the workplace and retaining their services.

VAMCs across the country must compete in local employment markets that offer a variety of flexible working schedules and pay practices to professional nurses. Such options are popular among nurses because it allows them to accommodate individual lifestyles and personal obligations. The proposed changes would allow VAMCs to implement flexible pay and work-schedule options common in many job markets. The ability to offer options comparable to those offered by their competitors would enhance VAMCs'

ability to remain competitive employers. These flexible nurse tour proposals align with the President's budget and would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

NURSE EXECUTIVE SPECIAL PAY

The proposed legislation also would authorize VA to approve special pay to the nurse executive at each VA medical center or VA Central Office. The special pay would range from a minimum of \$10,000 to a maximum of \$25,000, based on factors such as the grade of the nurse executive, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the of the healthcare facility, e.g., tertiary, single site or multi-site, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors as the Secretary deems appropriate.

This proposed nurse executive pay aligns with the President's budget and would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

There are significant inadequacies in the VA nurse locality pay system (LPS) as it relates to nurse executive compensation. There are difficulties in obtaining comparative survey data on non-VA nurse executive positions to use in making an informed determination concerning locality pay. Non-VA employers often do not cooperate in the survey process. Nurse executive positions are often one-of-a-kind positions making it difficult to match VA and non-VA jobs. Non-VA employers typically do not include nurse executives in compensation surveys. With the organizational changes and scope of responsibilities changes for nurse executives occurring in both VA and non-VA healthcare facilities, lines of authority and levels of responsibilities for executive nurses are changing. Thus, job and pay matching for nurse executives at VAMCs and non-VA healthcare facilities is extremely difficult. Furthermore, nurse executives work in a national labor market, or at least a regional one. LPS compares jobs on a local basis. Another major problem is that VA nurse executives are capped at Level V of the Executive Schedule (EL-V), \$125,400. There is no such cap in the non-VA healthcare industry. The EL-V rate is no longer competitive with non-VA nurse executive positions. Moreover, non-VA employers negotiate nurse executive compensation as a total compensation package, often including bonuses and other incentives in addition to base pay. VA is unable to do that.

The proposal derives from a recommendation of the VHA Future Nursing Workforce Planning Group. This group, composed of Medical Center Administrators, Nurse Executives, Network Managers and clinicians, has identified the \$10,000-\$25,000 range as the amount that most commonly would mirror salary and/or community based prerequisites

of non-VA nurse executives, while not making VA the pay leader within the community. It is also consistent with the range of special pay currently available to VA physician executives.

Responsibilities of VA nurse executives are rapidly changing and becoming more varied and complex. VA's pay system for them must address this growing variety and complexity.

COSTS

FLEXIBLE TOURS

(1) Three 12-hour tours (36 hours) paid as 40 hours.

Assumptions: Based on a 36 hour work week/72 hours per pay period for selected RNs. 40 hours/wk (Full-time) – 36 hours/wk (Full-time requested) = 4.

Average VA RN hourly wage = \$29.02 (using FY02 avg RN salary = \$56,679, adjusted by 3.2% annual pay increase = \$60,364, divided by 2,080).

Cost is 4 hours per week/208 hours per year per nurse.

Cost per RN per week: 4 \$29.02 = \$116.08; Cost per RN per year: 208 \$29.02 = \$6036.

Based on an estimated 25 nurses per facility, the cost would be as follows:

25 (RNs) \$6036 = \$150,900; 162 (VAMCs) \$150,900 = \$24.4 million.

FY 2004 costs would be \$12,222,900 (half-year implementation).

Costs in future years increased by 3.2%.

[In millions of dollars]

FY05	\$25.22
FY06	26.03
FY07	26.86
FY08	27.72
FY09	28.61
FY10	29.53
FY11	30.47
FY12	31.45
FY13	32.45

Total (over 10 years) \$270.56

(2) 9 months of work with 3 months off, with pay apportioned over a 12-month period.

This is an authorization to pay RNs who are hired under this provision less than full time pay for full time worked. RNs would work a full nine months prior to pay continuance for 3 months. Registered nurses hired under this provision would reflect the following:

1. Hired as part-time employees .75 FTE.
2. Each would work full-time (40 hr/wk) for nine months.
3. While working full time for 9 months they would agree to be paid .75 salary.
4. While not working for a period of 3 months, they would continue to be paid .75 salary.

VAMCs would determine when such appointments would begin, based on regional needs (e.g. higher winter workload in the sunbelt) and community-based competitive factors.

There are no costs associated with this proposal. It is estimated that VAMCs will de-

rive fiscal benefits from deferring 25 percent of pay for full-time work over a 9-month period.

(3) 7 ten-hour days/7 days off, with pay for 80 hours.

Assumptions: Based on paying an RN who works 70 hours as if 80 hours are worked. Average hourly wage = \$29.02 (using FY02 avg RN salary = \$56,679, adjusted by 3.2% annual pay increase = \$60,364, divided by 2,080).

Cost is 10 hours per pay period/260 hours per year.

Cost per RN per pay period: 10 \$29.02 = \$290.20; Cost per RN per year 260 \$29.02 = \$7,545.

Based on an estimated 15 nurses per facility, the cost would be as follows:

15 (RNs) \$7,545 = \$113,175; 162 (VAMCs) \$113,175 = \$18,334,350.

FY 2004 costs would be \$9,167,175 (half-year implementation).

Costs in future years increased by 3.2%.

[In millions of dollars]

FY05	\$18.92
FY06	19.53
FY07	20.15
FY08	20.80
FY09	21.46
FY10	22.15
FY11	22.86
FY12	23.59
FY13	24.34

Total (over 10 years) 203.00

NURSE EXECUTIVE PAY

Assumptions: One nurse executive at each of the 162 VHA medical centers would be authorized to receive the executive special pay, [Note: the estimate below is a maximum estimate since in any given year there will be a varying number of nurse executive vacancies. On board strength is estimated to average 150 nurse executives. This number also includes 5 nurse executives in the VACO Office of Nursing Services]. The average per executive would be \$17,500, \$2.62 million per year for 150 executives.

Year	Cost (millions)
2004	\$1.31
(Based on April 4, 2004 effective date):	
2005	2.62
2006	2.62
2007	2.62
2008	2.62
2009	2.62
2010	2.62
2011	2.62
2012	2.62
2013	2.62

Total 24.89

The Office of Management and Budget advises that the submission of this draft bill is in accord with the program of the President.

Sincerely yours,

ANTHONY J. PRINCIPI.

	Cost estimate	
	Direct costs for current staff	Savings from productivity
Cost for physicians	\$124,488,837	\$28,389,272
Cost for dentists	4,996,680	703,166
Cost for management	9,354,318	0
Total	138,839,835	29,092,438

10-YEAR PROJECTIONS

[First year cost projections assume implementation in 3rd quarter of FY 2004 ¹]

	Cost	Productivity savings	Contract/fee savings ²	Net cost
FY 2004	\$69,419,917	\$14,546,219	\$6,405,709	\$48,467,990
2005	144,254,588	30,227,043	19,217,127	94,810,419

10-YEAR PROJECTIONS—Continued

[First year cost projections assume implementation in 3rd quarter of FY 2004 ¹]

	Cost	Productivity savings	Contract/fee savings ²	Net cost
2006	149,880,517	31,405,898	32,028,544	86,446,075
2007	155,725,857	32,630,728	44,839,962	78,255,168
2008	161,799,166	33,903,326	57,651,380	70,244,460
2009	168,109,333	35,225,556	69,656,718	63,227,060
2010	174,665,597	36,599,352	80,855,976	57,210,269
2011	181,477,556	38,026,727	92,055,235	51,395,594
2012	188,555,180	39,509,769	103,254,493	45,790,918
2013	195,908,832	41,050,650	114,453,752	40,404,430
Total	1,589,796,546	333,125,267	620,418,896	636,252,382

¹ Assuming annual rate of inflation of 3.9 percent.² Savings based on difference between cost of providing services in-house vs. contract and fee basis. See attached sheet for calculation of estimated total contract savings (\$112 million over 10 years). Savings in contract expenditures based on realizing 10 percent of total savings per year. Savings in fee basis expenditures (\$8.05 million) based on 5 percent reduction per year over 5 years.

Note: Savings in 2013 do not equal total due to crediting only half-year savings in first year.

CONTRACT SAVINGS COMPUTATION SHEET

Clinical specialty	Current active vacancies	FY 2001 contract costs	New VA pay	Estimated average contract cost per FTE ¹	Estimated contract FTE ²	Estimated savings from contract replacement ³
Allergy/Immunology	2.4	\$393,353	\$134,629	\$265,724	1.48	\$194,061
Anesthesiology	89.5	18,040,153	216,469	387,500	46.56	7,962,388
Cardiology	58.1	17,556,339	183,928	423,031	41.50	9,923,087
Dermatology	18.125	19,411,073	173,538	352,366	55.09	9,851,230
Emergency Medicine	20	8,322,130	174,949	216,824	38.38	1,607,245
Endocrinology	6.1	186,985	133,695	181,776	1.03	49,458
Gastroenterology	45.4	1,902,181	156,510	329,111	5.78	997,592
General Internal Medicine	191.225	113,586,127	136,250	160,058	709.66	16,895,004
General Surgery	31.25	12,232,562	194,361	277,702	44.05	3,671,108
Geriatrics	11.375	5,300,674	132,003	167,694	31.61	1,128,177
Gynecology (OB/Gyn—Other)	1.9	2,646,880	176,359	206,943	12.79	391,181
Hematology/Oncology	29.625	3,604,702	140,164	385,606	9.35	2,294,428
Infectious Diseases	18.505	597,046	135,196	199,761	2.99	192,972
Nephrology	7	4,561,735	139,617	275,311	16.57	2,248,366
Neurology	22.25	2,182,569	133,314	212,216	10.28	811,484
Neurosurgery	7.175	3,786,867	249,601	502,913	7.53	1,907,405
Ophthalmology	17.1	4,315,444	171,094	301,451	14.32	1,866,135
Orthopedic Surgery	22.875	6,600,581	242,825	444,105	14.86	2,991,556
Otolaryngology	11.55	962,887	190,567	304,389	3.16	360,058
Pathology	24.875	10,832,884	145,778	289,235	37.45	5,372,989
Physical Medicine & Rehab	20.575	969,748	142,976	234,605	4.13	378,752
Plastic Surgery	5.125	840,228	223,465	472,475	1.78	442,828
Preventive Medicine	1	145,807	N/A	N/A	N/A
Psychiatry	110.175	4,350,983	146,887	161,440	26.95	392,213
Pulmonology	16.975	1,162,023	138,667	236,298	4.92	480,114
Radiology	100.2	64,119,853	220,662	450,000	142.49	32,678,042
Rheumatology	9.4	165,564	133,563	212,183	0.78	61,347
Thoracic/Cardiovasc Surgery	10.375	15,826,215	247,602	375,385	42.16	5,387,326
Urology	34.75	3,597,512	200,690	337,144	10.67	1,456,039
Total	944.905	328,055,298	111,992,584

¹ Estimated unit FTE cost based on MGMA Physician Compensation Report, 2002 (based on 2001 data); actual contract FTE costs may be higher.² Contract FTE constructed by dividing total contract expenditures by estimated unit FTE cost.³ Savings based on difference between contract costs per contract FTE and VA employee costs for same FTE, or actual contract expenditures, whichever is lower.

ANALYSIS OF DRAFT BILL

The first section provides a title for the bill, the ‘Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003’.

Section 2 specifies that, unless otherwise expressly provided, references throughout are to title 38, United States Code.

Section 3 establishes a new pay system for VA physicians and dentists.

Section 3(a)(1) amends section 7404(b)(1) to revise the Physician and Dentist Schedule such that there now are two grades: Physician grade and Dentist grade. It strikes paragraph (2) as a conforming amendment as the Director and Executive grades no longer exist.

Section 3(a)(2) strikes ‘special’ before ‘pay’ because Section 3(a)(3) repeals the special pay provisions, but the individuals concerned will still be paid under subchapter III.

Section 3(a)(3) strikes existing Subchapter III in its entirety and inserts in lieu thereof new sections 7431–7434:

Section 7431 establishes a new pay system for VHA physicians and dentists composed of three tiers, base pay, market pay, and performance pay. It additionally provides that compensation under the new system shall be considered pay for all purposes, that downward adjustments do not constitute adverse actions, and that total pay may not exceed that of the President. In order to reduce the risk of potential conflicts of interest, this section also would prohibit certain senior

title 38 officials from receiving any compensation, whether from employment or contract, from medical schools affiliated with their respective VAMCs.

Section 7432 provides for transition to the new pay system: written special pay agreements are terminated, but current pay levels continue until the new provisions are implemented on a date to be specified in VA regulations. Upon conversion to the new system, incumbent employees will be paid at least as much as they were paid under the old system. All pay under the new system, except performance pay, as well as special pay under the previous system, is fully creditable in computing retirement benefits.

Section 7433 contains provisions for pay for the Under Secretary for Health. In addition to base pay at Executive Level III, the Under Secretary would be eligible for market pay under the new system. The current Under Secretary's written special pay agreements are terminated, but would continue to be paid at current pay levels until the new provisions are implemented on a date to be specified in VA regulations. If a new Under Secretary were to be appointed during the interim, he/she would be paid under current law until a date to be specified in VA regulations.

Section 7434 contains several administrative provisions: (a) the Secretary is authorized to prescribe regulations; (b) current employees will not have their pay reduced when they move to the new system; (c) beginning eighteen months after issuance of regula-

tions implementing the new pay system and annually thereafter for the next ten years, the Secretary would be required to provide a report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the implementation of the new system.

Section 3(b) makes a conforming amendment to the title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74.

Section 4 provides for alternate work schedules.

Section 4(a) amends Chapter 74 to add a new section 7456a, Alternate Work Schedules:

Section 7456(a) specifies that this section applies to chapter 74 registered nurses.

Section 7456(b)(1) authorizes the Secretary, when necessary to obtain or retain registered nurses at any Department health-care facility, to provide for such nurses to work three regularly scheduled 12-hour tours of duty within a workweek, and for such tour to be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) a full 40-hour basic workweek.

Section 7456(b)(2) provides the formula for determining the hourly rate, and sets forth rules for overtime pay.

Section 7456(c)(1) authorizes the Secretary, when necessary to obtain or retain registered nurses at any Department health-care facility, to provide for such nurses to

work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, and for such tour to be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) a full 80-hour pay period.

Section 7456(c)(2) provides the formula for determining the hourly rate, and sets forth rules for overtime pay.

Section 7456(d)(1) authorizes the Secretary to provide for nurses to work full-time for 9 months with 3 months off, and be paid at 75 percent of the full-time rate over a full 12-month period over a fiscal year, and for employees working such tours to be considered .75 full-time equivalent employees. Service on this schedule shall be considered part-time service for purposes of computing retirement benefits.

Section 7456(e) provides the formula for determining leave charges for nurses working 36/40 or 7/7 work schedules.

Section 7456(f) directs the Secretary to prescribe implementing regulations.

Section 4(b) makes a conforming amendment to the title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 to add new section 7456a.

Section 5 establishes special pay for VA nurse executives.

Section 5(a) adds a new subsection (f) to section 7452:

Subsection (f)(1) authorizes, when necessary to recruit or retain nurse executives, special pay for the nurse executive at each Department health-care facility or at Central Office.

Subsection (f)(2) sets the range of special pay to be a minimum of \$10,000 and a maximum of \$25,000, and specifies the factors in determining the amount paid to each nurse executive.

Subsection (f)(3) specifies that special pay is in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and that it is to be considered pay for all purposes.

Section 6 sets the effective date for rates of pay established pursuant to section 7431, as added by section 3(a), and sections 4 and 5, as the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment. All other provisions are effective on the date of enactment.

Section 7 adds an administrative provision concerning functions under chapter 74. It provides that functions of the Secretary and other Department officers under chapter 74 are vested in their discretion. The purpose of this provision is to make clear that the exercise of those functions 5 U.S.C. 701(a)(2) exempts the exercise of those functions from judicial review under the Administrative Procedures Act.

By Mr. SPECTER (by request):

S. 2485. A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have introduced today, at the request of the Secretary of Veterans' Affairs, S. 2485, a proposed bill to modify provisions of law relating to the administration of real property assets by the Department of Veterans' Affairs, VA. The Secretary of Veterans' Affairs submitted the elements of this

proposed legislation to the President of the Senate by letters dated August 15, 2003, and October 3, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. In this case, however, I have departed from my usual course of simply introducing administration-advanced measures as forwarded to me. Measures that the administration forwarded in August and October, 2003, relate to similar subject matter, namely the administration of VA-controlled real property assets. It is my belief that these provisions, inasmuch as they are related, might be considered in a more orderly fashion as parts of a single piece of legislation. To facilitate that, I have included sections 401–403 of the administration's August 15, 2003, request, and sections 5–6 of the administration's October 3, 2003, request, in the single bill which I have introduced today. As is always my policy with respect to any such “by request” legislation, I reserve the right to oppose the provisions of, as well as any amendment to, this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Department of Veterans Affairs Real Property and Facilities Management Improvement Act of 2004”.

(b) **REFERENCES TO TITLE 38 UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NON-RECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

“(j) Funds in a construction account or capital account that are available for a construction project or non-recurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to such project.”.

SEC. 3. IMPROVEMENTS OF ENHANCED-USE LEASE AUTHORITIES.

(a) **BUSINESS PLAN CRITERIA.**—Section 8162 is amended—

(1) in subsection (a)(2)(B), by striking “the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services” and inserting “one of the Under Secretaries for applying the consideration under such a lease to the programs and activities of the Department”; and

(2) in subsection (b)(4)(A), by striking “on the leased property”.

(b) **CONSIDERATION OF PROPOSALS FOR LEASES.**—(1) Section 8163 is amended—

(A) in subsection (a), by striking the first sentence and inserting the following new sentence: “If the Secretary proposes to enter into an enhanced-use lease with respect to certain property, the Secretary shall conduct a public hearing before entering into the lease.”;

(B) in subsection (b), by striking “of the proposed designation and of the hearing” in the matter preceding paragraph (1) and inserting “on the proposed lease and the hearing to the congressional veterans’ affairs committees and to the public”; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by striking “to designate the property involved” and inserting “to enter into an enhanced-use lease of the property involved”; and

(II) by striking “to so designate the property” and inserting “to enter into the lease”;

(ii) in paragraph (2), by striking “90-day” and inserting “45-day”; and

(iii) by striking paragraph (4).

(2)(A) The heading of such section is amended to read as follows:

“§ 8163. Proposals for property to be leased”.

(B) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8163 and inserting the following new item:

“8163. Proposals for property to be leased.”.

(c) **DISPOSAL AUTHORITY.**—Section 8164 is amended—

(1) in subsection (a)—

(A) by striking “by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)”;

(B) by striking the last sentence;

(2) in subsection (b)—

(A) by striking “and the Administrator of General Services jointly determine” and inserting “determines”; and

(B) by striking “and the Administrator consider” and inserting “considers”; and

(3) in subsection (c), by striking “90 days” and inserting “45 days”.

(d) **USE OF PROCEEDS.**—Section 8165 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “Funds received” and inserting “Except as provided in paragraph (2), funds received”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) Funds received by the Department under an enhanced-use lease implementing a business plan proposed by the Under Secretary for Benefits or the Under Secretary for Memorial Affairs and remaining after any deduction from such funds under subsection (b) shall be credited to applicable appropriations of the Veterans Benefits Administration or National Cemetery Administration, as the case may be.”; and

(D) in paragraph (3), as so redesignated, by striking “nursing home revolving fund” and inserting “Capital Asset Fund established under section 8122A of this title”;

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”

(B) in paragraph (1), as so designated, by striking “for that fiscal year”; and

(C) by adding at the end the following new paragraph:

“(2) The Secretary may also deduct from the proceeds of any enhanced-use lease an amount to reimburse applicable appropriations of the Department for any expenses incurred by the Secretary in the development

of additional enhanced-use leases. Amounts so deducted shall be utilized to reimburse such appropriations.”; and

(3) by striking subsection (c).

SEC. 4. DISPOSAL OF REAL PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by inserting after section 8122 the following new section:

“§ 8122A. Disposal of real property

“(a) IN GENERAL.—(1) To the extent provided in advance in appropriations Acts, the Secretary may, in accordance with this section and sections 8122 and 8164 of this title, dispose of real property of the Department, including land and structures and equipment associated with such property, that is under the jurisdiction or control of the Secretary by—

“(A) transfer to or exchange with another department or agency of the Federal Government;

“(B) conveyance to or exchange with a State or a political subdivision of a State, an Indian tribe, or other public entity; or

“(C) conveyance to or exchange with any private person or entity.

“(2) The Secretary may exercise the authority in paragraph (1) notwithstanding the following provisions of law:

“(A) Sections 521, 522, and 541 through 545 of title 40.

“(B) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

“(3) In any transfer, exchange, or conveyance of real property under this subsection, the Secretary shall obtain consideration in an amount equal to the fair market value of the property, as determined by the Secretary.

“(b) TREATMENT OF PROCEEDS.—Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) shall be deposited in the Capital Asset Fund under subsection (c).

“(c) CAPITAL ASSET FUND.—There is established on the books of the Treasury of the United States a revolving fund known as the Capital Asset Fund (in this section referred to as the ‘Fund’).

“(d) ELEMENTS OF FUND.—The Fund shall consist of the following:

“(1) Amounts authorized to be appropriated to the Fund.

“(2) Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) that are deposited in the Fund under subsection (b).

“(3) Funds to be deposited in the Fund under section 8165(a)(3) of this title.

“(4) Any other amounts specified for transfer to or deposit in the Fund by law.

“(e) USE OF AMOUNTS IN FUND.—Subject to the provisions of appropriations Acts, amounts in the Fund shall be available for purposes as follows and in the following order of priority:

“(1) For costs of the Department in disposing of real property, including costs associated with demolition, environmental clean-up, maintenance and repair, improvements to facilitate disposal, and associated administrative expenses.

“(2) For costs of the Department associated with proposed disposals of real property of the Department.

“(3) For costs of non-recurring capital projects of the Department.

“(f) REPORTS.—The Secretary shall include with the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31) a report setting forth the following:

“(1) A statement of each disposal of real property to be undertaken in such fiscal year

that is valued in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title.

“(2) A description of each disposal of real property that was completed in the fiscal year ending in the year before such report is submitted.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8122 the following new item:

“8122A. Disposal of real property.”.

(b) CONFORMING AMENDMENT.—Section 8164(a) is amended in the second sentence by inserting “or 1822A” after “section 8122”.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Veterans Affairs for fiscal year 2005, \$10,000,000 for deposit in the Capital Asset Fund under section 1822A(c) of title 38, United States Code (as added by subsection (a)).

SEC. 5. MODIFICATION OF OTHER REAL PROPERTY DISPOSAL AUTHORITIES.

(a) GENERAL LIMITATIONS ON DISPOSAL.—Paragraph (2) of subsection (a) of section 8122 is amended to read as follows:

“(2) Except as provided in paragraph (3) of this subsection, the Secretary may not during any fiscal year dispose of real property owned by the United States and under the jurisdiction and control of the Secretary that has an estimated value in excess of the major medical facility project threshold specified in subsection 8104(a)(3)(A) of this title unless—

“(A) the disposal is described in the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31);

“(B) the Department receives consideration for the real property equal to the fair market value of the property, as determined by the Secretary; and

“(C) the net proceeds of the disposal are deposited in the Capital Asset Fund under section 8122A(c) of this title.”.

(b) DISPOSAL PROCEDURES.—Subsection (d) of such section is amended—

(1) by inserting “(1)” after “(d)”; and

(2) by adding at the end the following new paragraphs:

“(2)(A) In the case of property (including land and structures and equipment associated with such property) that has an estimated value less than the major medical facility project threshold specified in section 8104(a)(3)(A) of this title, the Secretary may dispose of the property if—

“(i) the Secretary notifies the Administrator of General Services of an intent to dispose of the property; and

“(ii) a period of 30 days elapses after notice under clause (i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property.

“(B) In disposing of property under subparagraph (A), the Secretary shall publish a notice of sale in the real estate section of a local newspaper of general circulation serving the market in which the property is located.

“(3) In the case of property (including land and structures and equipment associated with such property) that has an estimated value in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title, the Secretary may dispose of the property if—

“(A) the Secretary complies with subsection (a)(2) with respect to the property;

“(B) the Secretary—

“(i) notifies the Administrator of General Services of an intent to dispose of the property;

“(ii) publishes in the Federal Register notice of an intent to dispose of the property; and

“(iii) notifies the committees of an intent to dispose of the property;

“(C) a period of 30 days elapses after notice under subparagraph (B)(i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property; and

“(D) a period of 60 days elapses after notice under subparagraph (B)(iii).”.

SEC. 6. TERMINATION OF NURSING HOME REVOLVING FUND.

(a) TERMINATION.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(b) CONFORMING AMENDMENT.—Section 8165(a)(3), as redesignated by section 3(d)(1)(D) of this Act, is further amended by striking “nursing home revolving fund” and inserting “Capital Asset Fund under section 1822A of this title”.

(c) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Capital Asset Fund under section 8122A of title 38, United States Code (as added by section 4(a) of this Act).

SEC. 7. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUND TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

“(g) The limitation specified in subsection (f) shall not apply to projects for which funds have already been authorized by law in accordance with subsection (a)(2).”.

SEC. 8. LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

“§ 2412. Lease of land and buildings

“(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

“(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

“(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

“(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

“(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

“(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the ‘National Cemetery Administration Facilities Operation

Fund' (in this section referred to as the 'Fund').

"(2) The Fund shall consist of the following:

"(A) Amounts authorized to be appropriated to the Fund.

"(B) Proceeds from the lease of land or buildings under this section.

"(C) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

"(D) Any other amounts authorized for deposit in the Fund by law.

"(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

"(4) Amounts in the Fund shall remain available until expended."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2412. Lease of land and buildings."

By Mr. SPECTER (for himself and Ms. MURKOWSKI) (by request):

S. 2486. A bill to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration of benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation which I have introduced today which would, among other things, improve the education and housing benefits of our Nation's veterans. Education and housing benefits administered by the Department of Veterans Affairs, VA, were the essence of one of the most significant pieces of legislation in the 20th Century, the 1944 GI Bill of Rights. Sixty years later, the Veterans' Benefits Improvements Act of 2004, which I introduce today, would build on that historic legacy.

Section 101 of the bill would allow for significant increases in Montgomery GI Bill, MGIB, educational assistance benefits by expanding on "buy up" legislation which I authored in 1999 and which was enacted as part of Public Law 106-419. Under the provisions of the existing "buy up" program, active duty service members can increase their monthly MGIB "pay-out" by making voluntary in-service contributions of up to \$600 in addition to the \$1,200 aggregate contribution which is made to secure basic eligibility for MGIB benefits. In return for this added \$600 "investment," a veteran can secure an increase in his or her monthly MGIB benefit of \$150 per month. Assuming the veteran completes a 36-month course of full-time study, the added benefit amount to \$5,400, an effective yield of \$9 for every added dollar contributed. The legislation which I have introduced today would expand the "buy-up" program by allowing service members to voluntarily contribute more—up to \$2000—to the program, in return for which they could "buy" up to an

additional \$18,000—or \$500 per month over 36 months—in potential MGIB benefits. A service member who contributes the full \$2,000 could thus increase his or her aggregate MGIB entitlement to \$53,460, the amount that the College Board, an association of over 4,000 colleges and other educational organizations, estimates is necessary today to finance the average cost of tuition, fees, books, room and board, transportation, and expenses for a resident student at a four-year public institution of higher learning.

Section 102 of this bill would authorize VA to carry out a 4-year pilot program under which veterans could extend, for up to 2 years, their eligibility period to use MGIB education benefits. Current law states, in summary, that a veteran is entitled to 36 months of MGIB benefit, but only during a 10-year "delimiting period" beginning on the date of discharge from service. Section 102 of my bill would allow a veteran with a "left-over" entitlement to apply for a one-time extension of the delimiting period so that he or she might gain vocational or job readiness skills necessary to obtain or maintain employment. I believe that as the workforce evolves, so too must workers in order to stay competitive. Providing veterans with some flexibility in the use of a benefit they have earned—at a point in life beyond the "delimiting period"—is a sensible approach to helping veterans obtain the skills they may need to stay competitive in a 21st Century workforce.

Section 103 of this legislation would prohibit veterans' education benefits from being considered when determining a veteran's entitlement to Federal financial aid administered by the Department of Education. Under current law, such benefits are already excluded from eligibility calculations in determining eligibility for some forms of assistance granted by Title IV of the Higher Education Act of 1965, e.g., Pell grants and subsidized Stafford loans, but not for other forms of assistance, e.g., unsubsidized Stafford loans and campus-based aid. This legislation would rectify that anomaly by excluding veterans' education benefits from all such eligibility determinations.

Section 104 of the bill would fix yet another anomaly of law applicable to Reservists who are called to active duty. Current law generally specifies that such Reservists are eligible for MGIB benefits if they have served a minimum of 2 consecutive years of active duty. Current law also requires that service members contribute \$100 a month during their first 12 months of service to gain eligibility for MGIB benefits. Because the Department of Defense (DoD) activates Reservists for indefinite periods of time, it is impossible for a Reservist to know at the beginning of his or her activation period—when a decision has to be made on contributing the requisite \$100 per month—whether he or she will, in fact, end up serving 2 consecutive years of

active duty and, thus, whether he or she will become eligible for MGIB benefits. Due to that uncertainty, activated Reservists are, quite reasonably, hesitant to make the requisite contributions. The DoD and VA have worked around this problem; they permit Reservists who end up serving 2 consecutive years to pay the \$1,200 contribution at some later point—but the law does not explicitly authorize that allowance. This legislation would update the law to authorize these "late" contributions.

Section 201 of this legislation would increase the maximum amount of the VA home loan guaranty from \$60,000 to \$83,425. A guaranty of \$60,000 allows a veteran to purchase, without a down payment, a home with a value of four times that amount, or \$240,000. In many areas of the country, the median cost of housing is over \$300,000, effectively limiting the utility of this benefit. This legislation would raise the VA guaranty limit to make the effective amount of a VA loan equal to the so-called conforming loan rate in the non-VA secondary mortgage markets.

Sections 202 and 203 of this bill would expand on legislation I authored in 2002 that added a pilot adjustable rate mortgage, ARM, feature to VA's loan guaranty program. Currently, the pilot program, which expires on September 30, 2005, allows VA to guarantee only so-called "hybrid" ARMs. Even then, restrictive adjustment caps have effectively limited the program to only one type of hybrid ARM financing. This bill would give VA permanent authority to guaranty a full range of ARM financing, to include traditional 1-year ARMs and hybrid ARMs with interest rates fixed for periods of 3, 5, 7, or 10 years, consistent with the ARM provisions of the National Housing Act. I believe the housing benefit for veterans should, at the very least, equal that of benefits available for non-veterans through the FHA program.

Section 204 of this legislation resurrects legislation that was approved by the Senate during the 106th Congress, but which failed to pass the House. Current law mandates that VA collect a funding fee when veterans obtain a loan with a VA guaranty, but it also allows for a waiver of the funding fee if the veteran seeking housing assistance has suffered a service-connected disability. For the funding fee to be waived under current law, however, the veteran must already be receiving compensation, an event which can only occur after the service member has been discharged from service. Because VA has a presence at over 136 military discharge sites (where it conducts pre-discharge medical examinations), it is common for someone who is still in service to be adjudged disabled by VA. But because such a service member cannot yet receive veterans' compensation, VA cannot waive the funding fee even though an active-duty service can make use of his or her entitlement to a VA-guaranteed home loan while still in

service. This legislation would rectify that situation by, prospectively, allowing VA to waive funding fees for active duty service members who are eligible to receive compensation as a result of a pre-discharge examinations, but who are not yet discharged from service.

Section 301 of this legislation would rectify what I perceive to be an unintended oversight of the Veterans Employment Opportunity Act of 1998. That statute granted Federal job preferences to two classes of veterans—those who are “preference eligible” due to service during wartime or because of service-connected disability, and those who served on active duty for at least three years. The statute also authorized administrative and judicial redress but, by oversight, it limited such redress to the “preference eligible” class of veterans only. This legislation would extend current remedies to all veterans who are eligible for Federal job preferences.

Section 311 of this legislation would prohibit the collection of co-payments from veterans receiving VA-provided hospice care. The requirement for co-payments for hospice care is, I think, unduly burdensome in cases where the end of life is near. The Bush administration concurs; it requested this exemption in its fiscal year 2005 budget proposal. I am glad to advance this provision on behalf of the President.

Section 321 of this bill would extend three non-controversial statutory authorities that are now scheduled to expire. The first would extend, until 2009, the requirement that the VA's Advisory Committee on Former Prisoners of War submit a biennial report of its recommendations for improvements to benefits afforded to former prisoners of war. The second would make permanent VA authority to provide counseling and treatment services to veterans who have experienced sexual trauma while in service. The third would extend, until December 31, 2009, a reporting requirement imposed on VA's Special Medical Advisory Group. Finally, Section 331 of my legislation would update the definition of minority group members for purposes of the work of VA's Advisory Committee on Minority Veterans.

Mr. President, the principal thrust of this legislation is to improve and modernize aspects of VA education and housing programs which were first conceived 60 years ago. These improvements, and others contained in this bill, merit the support of the Senate. I request that support, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Veterans’ Benefits Improvements Act of 2004”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATION BENEFITS

Sec. 101. Increase in maximum amount of contribution for increased amount of basic educational assistance under Montgomery GI Bill.

Sec. 102. Pilot program on additional two-year period for use of entitlement by participants in Montgomery GI Bill for vocational or job readiness training.

Sec. 103. Exclusion of veterans education benefits in determination of eligibility or amount of Federal educational grants and loans.

Sec. 104. Collection of contributions for educational assistance under Montgomery GI Bill from Reserves called to active duty.

TITLE II—HOUSING BENEFITS

Sec. 201. Increase in maximum amount of housing loan guarantee.

Sec. 202. Permanent authority for guarantee of adjustable rate mortgages.

Sec. 203. Permanent authority for guarantee of hybrid adjustable rate mortgages and modification of guarantee authority.

Sec. 204. Termination of collection of loan fees from veterans rated eligible for compensation at pre-discharge rating examinations.

TITLE III—OTHER BENEFITS AND BENEFITS MATTERS

Subtitle A—Employment Benefits

Sec. 301. Availability of administrative and judicial redress for certain veterans denied opportunity to compete for Federal employment.

Subtitle B—Medical Benefits

Sec. 311. Prohibition on collection of copayments for hospice care.

Subtitle C—Extension of Benefits and Related Authorities

Sec. 321. Extension of various authorities relating to benefits for veterans.

Subtitle D—Other Matters

Sec. 331. Modification of definition of minority group member for purposes of Advisory Committee on Minority Veterans.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION BENEFITS

SEC. 101. INCREASE IN MAXIMUM AMOUNT OF CONTRIBUTION FOR INCREASED AMOUNT OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) ACTIVE DUTY BENEFIT.—Section 3011(e)(3) is amended by striking “\$600” and inserting “\$2,000”.

(b) SELECTED RESERVE BENEFIT.—Section 3012(f)(3) is amended by striking “\$600” and inserting “\$2,000”.

SEC. 102. PILOT PROGRAM ON ADDITIONAL TWO-YEAR PERIOD FOR USE OF ENTITLEMENT BY PARTICIPANTS IN MONTGOMERY GI BILL FOR VOCATIONAL OR JOB READINESS TRAINING.

(a) IN GENERAL.—(1) Subchapter I of chapter 30 is amended by adding at the end the following new section:

“§ 3020A. Additional two-year period for use of entitlement for vocational or job readiness instruction or training; pilot program

“(a) PILOT PROGRAM REQUIRED.—(1) The Secretary shall carry out a pilot program to assess the feasibility and advisability of permitting individuals whose entitlement to basic educational assistance under this chapter expires under section 3031 of this title before their complete use of such entitlement to be entitled to an additional two-year period for their use of such entitlement.

“(2) The pilot program shall commence six months after the date of the enactment of this section, and shall terminate four years after the date of the commencement of the pilot program.

“(b) ADDITIONAL TWO-YEAR PERIOD OF ENTITLEMENT.—Notwithstanding any provision of section 3031 of this title, an individual described in subsection (c) shall, at the expiration of the 10-year period beginning on the educational assistance entitlement commencement date of such individual, be entitled to an additional two-year period for the use of entitlement to basic educational assistance under this chapter.

“(c) ELIGIBLE INDIVIDUALS.—(1) An individual described in this subsection is any individual who—

“(A) as of the end of the 10-year period beginning on the educational assistance entitlement commencement date of such individual—

“(i) would remain entitled to basic educational assistance under this chapter but for the expiration of the 10-year delimiting period applicable to such individual under section 3031 of this title; and

“(ii) has not utilized all of the entitlement of such individual to basic educational assistance under this chapter; and

“(B) at the time of the application for entitlement under this subsection (d), is accepted, enrolled, or otherwise participating (as determined by the Secretary) in instruction or training described in subsection (e).

“(2) This subsection does not apply to an individual otherwise described by paragraph (1) whose remaining entitlement to basic educational assistance under this chapter as described in subparagraph (A)(ii) of that paragraph is based on the transfer of basic educational assistance under section 3020 of this title.

“(d) APPLICATION.—(1) An individual seeking an additional two-year period for the use of entitlement under this section shall submit to the Secretary an application therefor containing such information as the Secretary may require for purposes of this section.

“(2) The Secretary may not receive applications under this subsection after the termination date of the pilot program under subsection (a)(2).

“(e) COMMENCEMENT OF ADDITIONAL PERIOD FOR USE.—The additional two-year period for the use of entitlement by an individual under this section shall commence on the date the application of the individual under subsection (d) is received by the Secretary if the Secretary determines pursuant to a review of the application that the individual is an individual described by subsection (c) for purposes of this section.

“(f) INSTRUCTION OR TRAINING COVERED BY ADDITIONAL PERIOD FOR USE.—(1) The instruction or training for which entitlement to basic educational assistance under this chapter may be used during the additional two-year period for the use of entitlement under this section is as follows:

“(A) Education leading to employment in a high technology industry for purposes of section 3014A of this title.

“(B) A full-time program of apprenticeship or other on-job training approved as provided

in clause (1) or (2), as appropriate, of section 3687 of this title.

“(C) A cooperative program (as defined in section 3482(a)(2) of this title).

“(D) A licensing or certification test approved under section 3689 of this title.

“(E) Training or education leading toward a professional or vocational objective which has been approved in accordance with the provisions of subchapter I of chapter 36 of this title and is identified by the Secretary in regulations to be prescribed by the Secretary for purposes of this section.

“(2) Entitlement to basic educational assistance under this chapter may not be used during the additional two-year period for the use of entitlement under this section for the instruction or training as follows:

“(A) General education leading toward a standard college degree (as defined in section 3452(g) of this title), unless the program or training concerned will result in an associates degree that is approved by the Secretary in the manner specified in paragraph (1)(E) to be necessary to obtain a professional or vocational objective.

“(B) Preparatory courses for a test that is required or used for admission to an institution of higher education or graduate school.

“(g) COORDINATION WITH CERTAIN OTHER BENEFITS.—(1) An individual entitled to basic educational assistance under subsection (c) is entitled to educational and vocational counseling under section 3697A of this title in connection with the use of entitlement under this section.

“(2) An individual using entitlement to basic educational assistance under this chapter during the additional two-year period for the use of entitlement under this section is not entitled during the use of such entitlement to the following:

“(A) Supplemental educational assistance under subchapter III of this chapter.

“(B) A work-study allowance under section 3485 of this title.

“(h) EDUCATIONAL ASSISTANCE ENTITLEMENT COMMENCEMENT DATE DEFINED.—In this section, the term ‘educational assistance entitlement commencement date’, in the case of an individual described in subsection (b)(1), means the date on which begins the period during which the individual may use the individual’s entitlement to educational assistance under chapter as determined under section 3031 of this title.

“(i) EFFECT OF TERMINATION OF PILOT PROGRAM.—The termination of the pilot program under subsection (a)(2) shall not effect the continuing use of entitlement under this section of any individual whose additional two-year period for the use of entitlement under this section continues after the date of the termination of the pilot program under that subsection.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3020 the following new item:

“3020A. Additional two-year period for use of entitlement for vocational or job readiness instruction or training: pilot program.”

(b) CROSS-REFERENCE AMENDMENT.—Section 3031 is amended—

(1) in subsection (a), by striking “subsections (b) through (g), and subject to subsection (h),” and inserting “subsections (b) through (h), and subject to subsection (i),”;

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

“(h) An individual whose period for the use of entitlement to basic educational assistance under this chapter would otherwise expire under this section may be eligible for an

additional two-year period for the use of entitlement under section 3020A of this title.”

SEC. 103. EXCLUSION OF VETERANS EDUCATION BENEFITS IN DETERMINATION OF ELIGIBILITY OR AMOUNT OF FEDERAL EDUCATIONAL GRANTS AND LOANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 36 is amended by inserting after section 3694 the following new section:

“§ 3694A. Exclusion of veterans education benefits in determination of eligibility or amount of Federal education grants and loans

“(a) EXCLUSION.—Notwithstanding any other provision of law and subject to subsection (b), education benefits shall not be considered as income, assets, or other monetary resource in determining eligibility for, or the amount of, grant or loan assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

“(b) EXCEPTION.—In the case of campus-based student financial assistance, the amount of such assistance for which an individual would otherwise be eligible without taking into consideration education benefits as described in subsection (a) shall be reduced to the extent that the sum of such amount, the amount of the education benefits of the individual, and the amount of the Federal Pell Grant, if any, of the individual exceeds the cost of attendance of the individual.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘campus-based student financial assistance’ means grant, work, or loan assistance provided under subpart 3 of part A, and parts C and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b et seq.; 42 U.S.C. 2751 et seq.; 20 U.S.C. 1087aa et seq.).

“(2) The term ‘cost of attendance’ has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087lll).

“(3) The term ‘education benefits’ means education benefits under chapters 30, 32, and 35 of this title and under chapter 1606 of title 10.

“(4) The term ‘Federal Pell Grant’ means a grant provided under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).”

(2) The table of sections at the beginning of chapter 36 is amended by inserting after the item referring to section 3694 the following new item:

“3694A. Exclusion of veterans education benefits in determination of eligibility or amount of Federal education grants and loans.”

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to award years, as that term is defined in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), beginning on or after July 1, 2004.

SEC. 104. COLLECTION OF CONTRIBUTIONS FOR EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FROM RESERVES CALLED TO ACTIVE DUTY.

(a) ACTIVE DUTY PROGRAM.—Section 3011(b) is amended—

(1) by striking “The basic pay” and inserting “(1) Except as provided in paragraph (2), the basic pay”;

(2) by designating the second sentence as paragraph (3), indenting the left margin of such paragraph, as so designated, two ems, and, in that paragraph by striking “this chapter” and inserting “this subsection”;

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

“(2) In the case of an individual covered by paragraph (1) who is a Reserve, the Secretary shall collect from the individual an amount

equal to \$1,200 before the commencement by the individual of the use of entitlement to basic educational assistance under this chapter. The Secretary may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary determines appropriate.”

(b) SELECTED RESERVE PROGRAM.—Section 3012(c) is amended—

(1) by striking “The basic pay” and inserting “(1) Except as provided in paragraph (2), the basic pay”;

(2) by designating the second sentence as paragraph (3), indenting the left margin of such paragraph, as so designated, two ems, and, in that paragraph by striking “this chapter” and inserting “this subsection”;

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

“(2) In the case of an individual covered by paragraph (1) who is a Reserve, the Secretary shall collect from the individual an amount equal to \$1,200 before the commencement by the individual of the use of entitlement to basic educational assistance under this chapter. The Secretary may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary determines appropriate.”

TITLE II—HOUSING BENEFITS

SEC. 201. INCREASE IN MAXIMUM AMOUNT OF HOUSING LOAN GUARANTEE.

(a) IN GENERAL.—Subparagraph (A)(i)(IV) of section 3703(a)(1) is amended by striking “\$60,000” and inserting “\$83,425”.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of such section is amended by striking “\$60,000” and inserting “\$83,425”.

SEC. 202. PERMANENT AUTHORITY FOR GUARANTEE OF ADJUSTABLE RATE MORTGAGES.

Section 3707(a) is amended by striking “The Secretary shall” and all that follows through “guaranteeing loans” and inserting “The Secretary shall guarantee loans”.

SEC. 203. PERMANENT AUTHORITY FOR GUARANTEE OF HYBRID ADJUSTABLE RATE MORTGAGES AND MODIFICATION OF GUARANTEE AUTHORITY.

(a) PERMANENT AUTHORITY.—Subsection (a) of section 3707A is amended by striking “The Secretary shall” and all that follows through “guaranteeing loans” and inserting “The Secretary shall guarantee loans”.

(b) MODIFICATION OF INTEREST RATE ADJUSTMENT REQUIREMENTS.—Subsection (c) of such section is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

“(3) in the case of the initial interest rate adjustment under such provisions, be limited to a maximum increase or decrease of 1 percentage point if the interest rate remained fixed for 3 or fewer years; and”;

(2) in paragraph (4), by striking “5 percentage points” and all that follows and inserting “such number of percentage points as the Secretary shall prescribe for purposes of this section.”

(c) NO EFFECT ON GUARANTEE OF LOANS UNDER HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE DEMONSTRATION PROJECT.—The amendments made by this section shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act.

SEC. 204. TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS.

Section 3729(c) is amended—

- (1) by inserting “(1)” before “A fee”; and
- (2) by adding at the end the following new paragraph:

“(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.”.

TITLE III—OTHER BENEFITS AND BENEFITS MATTERS

Subtitle A—Employment Benefits

SEC. 301. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REDRESS FOR CERTAIN VETERANS DENIED OPPORTUNITY TO COMPETE FOR FEDERAL EMPLOYMENT.

(a) ADMINISTRATIVE REDRESS.—Section 3330a(a)(1) of title 5, United States Code, is amended—

- (1) by inserting “(A)” after “(1)”; and
- (2) by adding at the end the following new subparagraph:

“(B) A veteran described in section 3304(f)(1) who alleges that an agency has violated such section with respect to such veteran may file a complaint with the Secretary of Labor.”.

(b) JUDICIAL REDRESS.—Section 3330b(a)(1) of such title is amended by inserting “, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section,” after “a preference eligible”.

Subtitle B—Medical Benefits

SEC. 311. PROHIBITION ON COLLECTION OF CO-PAYMENTS FOR HOSPICE CARE.

Section 1710B(c)(2) is amended—

- (1) in subparagraph (A), by striking “or” at the end;

- (2) by redesignating subparagraph (B) as subparagraph (C); and

- (3) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) to a veteran being furnished hospice care under this section; or”.

Subtitle C—Extension of Benefits and Related Authorities

SEC. 321. EXTENSION OF VARIOUS AUTHORITIES RELATING TO BENEFITS FOR VETERANS.

(a) SIX-YEAR EXTENSION OF BIENNIAL REPORT OF ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR.—Section 541(c)(1) is amended by striking “2003” and inserting “2009”.

(b) PERMANENT AUTHORITY FOR COUNSELING AND TREATMENT FOR SEXUAL TRAUMA.—Section 1720D(a) is amended—

- (1) in paragraph (1), by striking “During the period through December 31, 2004, the Secretary” and inserting “The Secretary”; and

- (2) in paragraph (2), by striking “, during the period through December 31, 2004.”.

(c) FIVE-YEAR EXTENSION OF REPORTS BY SPECIAL MEDICAL ADVISORY GROUP.—Section 7312(d) is amended by striking “December 31, 2004” and inserting “December 31, 2009”.

Subtitle D—Other Matters

SEC. 331. MODIFICATION OF DEFINITION OF MINORITY GROUP MEMBER FOR PURPOSES OF ADVISORY COMMITTEE ON MINORITY VETERANS.

Subsection (d) of section 544 is amended to read as follows:

“(d) In this section, the term ‘minority group member’ means an individual who is—

- “(1) American Indian or Alaska Native;
- “(2) Asian;
- “(3) Black or African American;
- “(4) Native Hawaiian or other Pacific Islander; or
- “(5) of the Hispanic, Latino, or Spanish origin.”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 368—COMMENDING THE UNIVERSITY OF VIRGINIA CAVALIERS WOMEN'S LACROSSE TEAM FOR WINNING THE 2004 NCAA DIVISION I WOMEN'S LACROSSE NATIONAL CHAMPIONSHIP

Mr. ALLEN (for himself and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 368

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in the University of Virginia Cavaliers National Champion women's lacrosse team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Princeton Tigers, the Cavaliers raced out to a 5 to 1 halftime lead on the strength of 8 saves by tournament Most Valuable Player Andrea Pfeiffer and 2 goals and an assist from Tyler Leachman;

Whereas the Cavaliers won the 2004 NCAA Division I women's lacrosse National Championship with an outstanding second half performance, scoring 5 goals to the Princeton Tigers' 3 goals to win by a score of 10 to 4;

Whereas the Cavaliers added the NCAA women's lacrosse title to their Atlantic Coast Conference (ACC) title to claim their second championship in 2004;

Whereas every player on the Cavalier women's lacrosse team—Amy Appelt, Caitlin Banks, Bridget Bradley, Kate Breslin, Laura Burns, Cary Chasney, Kim Connors, Ashley Dodson, Ashleigh Haas, Julie Hauser, Megan Havrilla, Carol Hotarek, Lauren Keller, Meredith Lazarus, Tyler Leachman, Nikki Leib, Chelsea Metz, Ginger Miles, Jessy Morgan, Erin Nagle, Andrea Pfeiffer, Elizabeth Pinney, Kaitlin Swagart, Erin Sweeney, Morgan Thalenberg, Molly Urlock, Jess Wasilewski, and Courtney Young—contributed to the team's success in this impressive championship season;

Whereas the Cavaliers women's lacrosse team Head Coach Julie Myers has won more than 100 games and has taken her teams to the NCAA title game 4 times, a feat only accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers's 8 consecutive invitations to the NCAA lacrosse tournament has only been accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers entered this season, her ninth year at the University of Virginia, as Head Coach with 2 NCAA women's lacrosse titles—1 as a player (1991) and 1 as an assistant coach (1993);

Whereas Julie Myers is the third person in NCAA women's lacrosse history to win a title as both a player and a coach, and is the first person to play for the championship both as a player and as a head coach; and

Whereas assistant coaches Heather Dow, Kateri Linville, and Colleen Shearer deserve high commendation for their strong leadership of, and superb coaching support to, the

University of Virginia Cavaliers women's lacrosse team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion University of Virginia Cavaliers women's lacrosse team.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3251. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3252. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3253. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3254. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3255. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3256. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 1955, to make technical corrections to laws relating to Native Americans, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3251. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. SENSE OF CONGRESS ON AMERICA'S NATIONAL WORLD WAR I MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) The Liberty Memorial Museum in Kansas City, Missouri, was built in 1926 in honor of those individuals who served in World War I in defense of liberty and the Nation.

(2) The Liberty Memorial Association, a nonprofit organization which originally built the Liberty Memorial Museum, is responsible for the finances, operations, and collections management of the Liberty Memorial Museum.

(3) The Liberty Memorial Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the United States and its allies in the World War I years (1914-1918), both on the battlefield and on the home front.

(4) The Liberty Memorial Museum project began after the 1918 Armistice through the efforts of a large-scale, grass-roots civic and fundraising effort by the citizens and veterans of the Kansas City metropolitan area. After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was opened to the public in 1926.

(5) In 1994, the Liberty Memorial Museum closed for a massive restoration and expansion project. The restored museum reopened to the public on Memorial Day, 2002, during a gala rededication ceremony.

(6) Exhibits prepared for the original museum buildings presaged the dramatic, underground expansion of core exhibition gallery space, with over 30,000 square feet of new interpretive and educational exhibits currently in development. The new exhibits, along with an expanded research library and archives, will more fully utilize the many thousands of historical objects, books, maps, posters, photographs, diaries, letters, and reminiscences of World War I participants that are preserved for posterity in the Liberty Memorial Museum's collections. The new core exhibition is scheduled to open on Veterans Day, 2006.

(7) The City of Kansas City, the State of Missouri, and thousands of private donors and philanthropic foundations have contributed millions of dollars to build and later to restore this national treasure. The Liberty Memorial Museum continues to receive the strong support of residents from the States of Missouri and Kansas and across the Nation.

(8) Since the restoration and rededication of 2002, the Liberty Memorial Museum has attracted thousands of visitors from across the United States and many foreign countries.

(9) There remains a need to preserve in a museum setting evidence of the honor, courage, patriotism, and sacrifice of those Americans who offered their services and who gave their lives in defense of liberty during World War I, evidence of the roles of women and African Americans during World War I, and evidence of other relevant subjects.

(10) The Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the "Lessons of Liberty" to the Nation's schoolchildren through on-site visits, classroom curriculum development, distance learning, and other educational initiatives.

(12) The Liberty Memorial Museum should always be the Nation's museum of the national experience in the World War I years (1914-1918), where people go to learn about this critical period and where the Nation's history of this monumental struggle will be preserved so that generations of the 21st century may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) This initiative to recognize and preserve the history of the Nation's sacrifices in World War I will take on added significance as the Nation approaches the centennial observance of this event.

(14) It is fitting and proper to refer to the Liberty Memorial Museum as "America's National World War I Museum".

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the Liberty Memorial Museum in Kansas City, Missouri, including the museum's future and expanded exhibits, collections, library, archives, and educational programs, as "America's National World War I Museum";

(2) recognizes that the continuing collection, preservation, and interpretation of the historical objects and other historical materials held by the Liberty Memorial Museum enhance the knowledge and understanding of the Nation's people of the American and allied experience during the World War I years (1914-1918), both on the battlefield and on the home front;

(3) commends the ongoing development and visibility of "Lessons of Liberty" educational outreach programs for teachers and students throughout the Nation; and

(4) encourages the need for present generations to understand the magnitude of World War I, how it shaped the Nation, other countries, and later world events, and how the sacrifices made then helped preserve liberty, democracy, and other founding principles for generations to come.

SA 3252. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVIII, add the following:

SEC. 2844. TREATMENT OF PROCEEDS OF SALE OF REAL PROPERTY AT ROCKY MOUNTAIN ARSENAL, COLORADO, DISPOSED OF FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC USE.

Section 5(c) of the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102-402; 106 Stat. 1966; 16 U.S.C. 668dd note) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Any amounts realized by the United States upon the sale of property as described in paragraph (1) shall be transferred to the National Fish and Wildlife Foundation for use in constructing a visitor center and an environmental education center for the refuge.

"(3) The use by the Foundation of amounts transferred to the Foundation under paragraph (2) shall be subject to the following:

"(A) Applicable provisions of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), except that such use shall not be subject to section 10(a) of such Act (16 U.S.C. 3709(a)).

"(B) Such terms and conditions as the Foundation and the United States Fish and Wildlife Service shall jointly agree upon with respect to the construction of the visitor center and the environmental education center.

"(4) If the amount transferred to the Foundation under paragraph (2) is excess to the amount required for the construction of the visitor center and the environmental edu-

cation center, the Foundation shall use the amount of the excess to pay costs associated with the operation and maintenance of the centers."

SA 3253. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between the matter following line 13 and line 14, insert the following:

SEC. 535. QUALIFICATIONS FOR APPOINTMENT AS DEAN OF THE FACULTY AT THE UNITED STATES AIR FORCE ACADEMY.

Section 9335(a) of title 10, United States Code, is amended by inserting before the period at the end of the second sentence the following: ". except that, if the Dean is not an officer of the Air Force on active duty, the Dean shall be a retired officer or former officer of the Air Force, and a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field".

SA 3254. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between the matter following line 13 and line 14, insert the following:

SEC. 535. REPEAL OF REQUIREMENT FOR OFFICER TO RETIRE UPON TERMINATION OF SERVICE AS SUPERINTENDENT OF THE AIR FORCE ACADEMY.

(a) REPEALS.—Sections 8921 and 9333a of title 10, United States Code, are repealed.

(b) CLERICAL AMENDMENTS.—Subtitle D of title 10, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 867, by striking the item relating to section 8921; and

(2) in the table of sections at the beginning of chapter 903, by striking the item relating to section 9333a.

SA 3255. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title III, insert the following:

SEC. 353. SENSE OF THE SENATE REGARDING RESIDENTIAL COMMUNITIES INITIATIVE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 750,000 school-aged children of members of the active duty Armed Forces in the United States.

(2) Approximately 650,000 of those students are currently being served in public schools across the United States.

(3) The Department of the Army has embarked on a housing initiative, the Residential Communities Initiative, which will result in 70,770 new family housing units at 34 installations and a corresponding increase in the number of school-aged children housed at those installations.

(4) The Secretary of the Army is authorized to include new school facilities in privatized housing contracts; however, the Secretary of the Army has not been using this authority to its fullest advantage. As a result, local educational agencies are being severely impacted by increased student-age populations.

(5) Local educational agencies are struggling under increasing financial burdens as a result of State budget cuts that have reduced the rate of growth for education spending to its lowest point since the 1990–1991 recession and this burden is exacerbated by a stagnate Federal education budget that actually cuts total education funding in fiscal year 2006 through fiscal year 2009 by \$5,000,000.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that the Department of the Army should support, through a dedicated fund, the construction of schools in local educational agencies whose student populations are severely impacted by housing developed through the Residential Communities Initiative.

SA 3256. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 1955, to make technical corrections to laws relating to Native Americans, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Native American Technical Corrections Act of 2004”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Sec. 101. National Fund for Excellence in American Indian Education.

Sec. 102. Indian Financing Act Amendments.

Sec. 103. Indian tribal justice technical and legal assistance.

Sec. 104. Tribal justice systems.

Sec. 105. Crow Tribal Trust Fund.

Sec. 106. ANCSA amendment.

Sec. 107. Washoe Tribe of Nevada and California land conveyance.

TITLE II—ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

Sec. 201. Short title.

Sec. 202. Findings.

Sec. 203. Definitions.

Sec. 204. Distribution of judgment funds.

Sec. 205. Applicable law.

TITLE III—INDIAN LAND LEASING

Sec. 301. Authorization of 99-year leases.

Sec. 302. Certification of rental proceeds.

Sec. 303. Montana Indian Tribes; agreement with Dry Prairie Rural Water Association, Incorporated.

Sec. 304. Authorization of leases of restricted land for terms of 99 years.

TITLE IV—NAVAJO HEALTH CONTRACTING

Sec. 401. Navajo health contracting.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

SEC. 101. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.

Title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb) is amended—

(1) by striking the title heading and inserting the following:

“TITLE V—NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION”;

(2) in section 501 (25 U.S.C. 458bbb)—

(A) by striking the section heading and inserting the following:

“SEC. 501. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.”;

and

(B) in subsection (a), by striking “the American Indian Education Foundation” and inserting “a foundation to be known as the ‘National Fund for Excellence in American Indian Education’”; and

(3) in section 503(2) (25 U.S.C. 458bbb-2(2)), by striking “Foundation” the second place it appears and inserting “National Fund for Excellence in American Indian Education”.

SEC. 102. INDIAN FINANCING ACT AMENDMENTS.

(a) **LOAN GUARANTIES AND INSURANCE.**—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking “the Secretary is authorized (a) to guarantee” and inserting “the Secretary may—

“(1) guarantee”;

(2) by striking “Indians; and (b) in lieu of such guaranty, to insure” and inserting “Indians; or

“(2) to insure”;

(3) by striking “SEC. 201. In order” and inserting the following:

“SEC. 201. LOAN GUARANTIES AND INSURANCE.

“(a) IN GENERAL.—In order”; and

(4) by adding at the end the following:

“(b) **ELIGIBLE BORROWERS.**—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.”.

(b) **LOAN APPROVAL.**—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking “SEC. 204.” and inserting the following:

“SEC. 204. LOAN APPROVAL.”.

(c) **LOANS INELIGIBLE FOR GUARANTY OR INSURANCE.**—Section 206 of the Indian Financing Act of 1974 (25 U.S.C. 1486) is amended by striking “Internal Revenue Code of 1954, as amended,” and inserting “Internal Revenue Code of 1986 (except loans made by certified Community Development Finance Institutions)”.

(d) **AGGREGATE LOANS OR SURETY BONDS LIMITATION.**—Section 217(b) of the Indian Financing Act of 1974 (25 U.S.C. 1497(b)) is amended by striking “\$500,000,000” and inserting “\$1,500,000,000”.

SEC. 103. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE.

Sections 106 and 201(d) of the Indian Tribal Justice Technical and Legal Assistance Act (25 U.S.C. 3666, 3681(d)) are amended by striking “for fiscal years 2000 through 2004” and inserting “for fiscal years 2004 through 2010”.

SEC. 104. TRIBAL JUSTICE SYSTEMS.

Subsections (a), (b), (c), and (d) of section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) are amended by striking “2007” and inserting “2010”.

SEC. 105. CROW TRIBAL TRUST FUND.

Section 6(d) of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776d(d)), is amended—

(1) in the subsection heading, by inserting “AND CAPITAL GAINS” after “INTEREST”;

(2) in paragraph (1), by striking “Only” and inserting “Except as provided in paragraph (4), only”; and

(3) by adding at the end the following:

“(4) **DISTRIBUTION OF CAPITAL GAINS.**—Notwithstanding subsection (f) or any other provision of law, capital gains and any other noninterest income received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe to the extent that the balance in the Crow Tribal Trust Fund (including capital gains) exceeds \$85,000,000, for the same uses and subject to the same restrictions in paragraphs (1) and (3) as are applicable to distributions of interest.”.

SEC. 106. ANCSA AMENDMENT.

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)), to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

SEC. 107. WASHOE TRIBE OF NEVADA AND CALIFORNIA LAND CONVEYANCE.

Section 2 of Public Law 108-67 (117 Stat. 880) is amended by striking “the parcel” and all that follows and inserting “a portion of Lots 3 and 4, as shown on the United States and Encumbrance Map revised January 10, 1991, for the Toiyabe National Forest, Ranger District Carson -1, located in the S½ of NW¼ and N½ of SW¼ of the SE¼ of sec. 27, T. 15N, R. 18E, Mt. Diablo Base and Meridian, comprising 24.3 acres.”.

TITLE II—ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the “Assiniboiné and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution Act of 2004”.

SEC. 202. FINDINGS.

Congress finds that—

(1) on December 18, 1987, the Assiniboiné and Sioux Tribes of the Fort Peck Reservation and 5 individual Fort Peck tribal members filed a complaint in the United States Claims Court (currently the Court of Federal Claims) in the case of Assiniboiné and Sioux Tribes of the Fort Peck Reservation v. United States of America, Docket No. 773-87-L, to recover interest earned on trust funds while those funds were held in special deposit accounts and Indian Moneys—Proceeds of Labor accounts;

(2) the Court held that the United States was liable for any income derived from investment of the trust funds of the Tribe and individual members of the Tribe for the period during which those funds were held in special deposit accounts and Indian Moneys—Proceeds of Labor accounts;

(3) on December 31, 1998, the plaintiffs entered into a settlement with the United States for claims made in the case for payment by the United States of—

(A) \$1,339,415.33, representing interest earned on funds while held in special deposit accounts at the Fort Peck Agency during the period August 13, 1946, through September 30, 1981;

(B) \$2,749,354.41, representing—

(1) interest on the principal indebtedness for the period from August 13, 1946, through July 31, 1998; plus

(ii) \$364.27 in per diem interest on the principal indebtedness for each day during the period commencing August 1, 1998, and ending on the date on which the judgment is paid; and

(C) \$350,000, representing the litigation costs and attorney's fees that the Tribe incurred to prosecute the claims;

(4) the terms of the settlement were approved by the Court on January 8, 1999, and judgment was entered on January 12, 1999;

(5) on March 18, 1999, \$4,522,551.84 was transferred to the Department of the Interior;

(6) that judgment amount was deposited in an escrow account established to provide—

(A) \$350,000 for the payment of attorney's fees and expenses; and

(B) \$4,172,551.84 for pending Court-ordered distribution to the Tribe and individual Indian trust beneficiaries;

(7) on January 31, 2001, the Court approved a joint stipulation that established procedures for—

(A) identification of the class of individual Indians having an interest in the judgment;

(B) notice to and certification of that class; and

(C) the distribution of the judgment amount to the Tribe and affected class of individual Indians;

(8)(A) on or about February 14, 2001, in accordance with the Court-approved stipulation, \$643,186.73 was transferred to an account established by the Secretary for the benefit of the Tribe; and

(B) that transferred amount represents—

(i) 54.2 percent of the Tribe's estimated 26-percent share of the amount referred to in paragraph (6)(B); plus

(ii) 50 percent of the Tribe's estimated 26-percent share of interest and capital gains earned on the judgment amount from the period beginning March 18, 1999, and ending on December 31, 2000;

(9) under the Court-approved stipulation—

(A) that transferred amount is to remain available for use by the Tribe in accordance with a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.);

(B) the Tribe will most likely receive additional payments from the distribution amount once the identification of all individuals eligible to share in the distribution amount is completed and the pro rata shares are calculated; and

(C) those additional payments would include—

(i) the balance of the share of the Tribe of the distribution amount and investment income earned on the distribution amount;

(ii) the portion of the distribution amount that represents income derived on funds in special deposit accounts that are not attributable to the Tribe or any individual Indian; and

(iii) the portion of the distribution amount that represents shares attributable to individual Indians that—

(I) cannot be located for purposes of accepting payment; and

(II) will not be bound by the judgment in the case referred to in paragraph (1); and

(10) under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit to Congress for approval an Indian judgment fund use or distribution plan.

SEC. 203. DEFINITIONS.

In this title:

(1) COURT.—The term "Court" means the Court of Federal Claims.

(2) DISTRIBUTION AMOUNT.—The term "distribution amount" means the amount referred to in section 202(6)(B).

(3) JUDGMENT AMOUNT.—The term "judgment amount" means the amount referred to in section 202(5).

(4) PRINCIPAL INDEBTEDNESS.—The term "principal indebtedness" means the amount referred to in section 202(3)(A).

(5) TRIBE.—The term "Tribe" means the Assiniboiné and Sioux Tribes of the Fort Peck Reservation.

SEC. 204. DISTRIBUTION OF JUDGMENT FUNDS.

(a) IN GENERAL.—Notwithstanding any provision of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the share of the Tribe of the distribution amount, and such additional amounts as may be awarded to the Tribe by the Court with respect to the case referred to in section 202(1) (including any interest accrued on those amounts)—

(1) shall be made available for tribal health, education, housing, and social services programs of the Tribe, including—

(A) educational and youth programs;

(B) programs for improvement of facilities and housing;

(C) programs to provide equipment for public utilities;

(D) programs to provide medical assistance or dental, optical, or convalescent equipment; and

(E) programs to provide senior citizen and community services; and

(2) shall not be available for per capita distribution to any member of the Tribe.

(b) BUDGET SPECIFICATION.—The specific programs for which funds are made available under subsection (a)(1), and the amount of funds allocated to each of those programs, shall be specified in an annual budget developed by the Tribe and approved by the Secretary.

SEC. 205. APPLICABLE LAW.

Except as provided in section 204(a), all funds distributed under this title are subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

TITLE III—INDIAN LAND LEASING

SEC. 301. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by inserting "the reservation of the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation";

(2) by inserting "the" before "Yavapai-Prescott";

(3) by inserting "the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe," after "the Cabazon Indian reservation";

(4) by striking "Washington,," and inserting "Washington,";

(5) by inserting "lands held in trust for the Fallon Paiute Shoshone Tribes," before "lands held in trust for the Pueblo of Santa Clara"; and

(6) by inserting "land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

SEC. 302. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91-229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

SEC. 303. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

(a) IN GENERAL.—The Assiniboiné and Sioux Tribes of the Fort Peck Indian Reservation (referred to in this section as the "Tribes") may, with the approval of the Secretary of the Interior, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85-20-201) for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated (or any successor entity), in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary of the Interior without monetary compensation to the Tribes; and

(B) the Secretary of the Interior shall not be subject to liability for any claim or cause of action relating to the compensation or consideration received by the Tribes under the lease or conveyance.

(c) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes any permanent alienation of any water by the Tribes.

SEC. 304. AUTHORIZATION OF LEASES OF RESTRICTED LAND FOR TERMS OF 99 YEARS.

The first section of the Act of August 9, 1955 (25 U.S.C. 415) (as amended by section 3), is amended by adding at the end the following:

"(h) AUTHORIZATION OF LEASES OF TRIBALLY OWNED RESTRICTED LAND FOR TERMS OF 99 YEARS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), any restricted Indian land that is owned by an Indian tribe may be leased by the tribal owner, with the approval of the Secretary of the Interior, for a term of not longer than 99 years, for—

"(A) public, religious, educational, recreational, residential, or business purposes; and

"(B) any other purpose stated in subsection (a), unless the Secretary determines that the principal purpose of the lease is for—

"(i) exploration, development, or extraction of a mineral resource; or

"(ii) storage of materials listed as high level radioactive waste (as defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)).

"(2) APPROVAL BY THE SECRETARY.—To the maximum extent practicable under law, the Secretary shall approve or disapprove a lease described in subsection (a) or an amendment to such a lease not later than the date that is 270 days after the date on which an application for approval of the lease or lease amendment is submitted to the Secretary.".

TITLE IV—NAVAJO HEALTH CONTRACTING

SEC. 401. NAVAJO HEALTH CONTRACTING.

The Navajo Health Foundation/Sage Memorial Hospital in Ganado, Arizona, shall be considered to be a tribal contractor under the Indian Self-Determination and Education Assistance Act for the purposes of section 102(d) and subsections (k) and (o) of section 105 of that Act (25 U.S.C. 450f(d), 450j) provided that the Hospital remains the authorized tribal organization (as defined in section 4 of that Act (25 U.S.C. 450b)) of the Navajo Nation.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, June 8th, 2004 at 10:00 a.m. in Room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Suedeene G. Kelly, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2009.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224-1327.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, June 8, 2004 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 931, to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land; S. 1678, to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes; S. 2140, to expand the boundary of the Mount Rainier National Park; S. 2287, to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; and S. 2469, to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Sarah Creachbaum at (202) 224-6293.

COMMENDING THE UNIVERSITY OF
VIRGINIA WINNING THE 2004
NCAA DIVISION I WOMEN'S LA-
CROSSE NATIONAL CHAMPION-
SHIP

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 368, which was submitted earlier today by Senators ALLEN and WARNER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 368) commending the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. Mr. President, I congratulate the University of Virginia Women's Lacrosse team for winning the 2004 NCAA Division I lacrosse championship with a 10-to-4 victory over the previously undefeated 2003 champion Princeton Tigers and introduce a resolution expressing the congratulations of the United States Senate to these outstanding young women.

As a University of Virginia graduate and father of a daughter who plays lacrosse in high school, I express the pride felt by all students, faculty and alumni of the University of Virginia at this tremendous accomplishment by the women's lacrosse team. Coach Julie Myers and her superb coaching staff: Colleen Shearer, Heather Dow and Kateri Linville, deserve much of the credit for the accomplishment of these student athletes and should also be highly commended.

The University of Virginia Cavaliers Women's Lacrosse team raced out to a 5 to 1 halftime lead on the strength of eight saves by tournament MVP Andrea Pfeiffer and two goals and an assist from Tyler Leachman. The University of Virginia went on to win the championship with an outstanding second half performance scoring five goals to the Princeton Tigers' three to win the 2004 NCAA women's lacrosse title 10 to 4.

In her distinguished career, Cavalier Head Coach Julie Myers has won over a hundred games and has taken her teams to the NCAA title game four times, a feat accomplished by only four other coaches in Division I history. Cavalier teams' eight consecutive invitations to the NCAA tournament have been accomplished by only four other coaches in Division I history. In addition to their 2004 National title, the women's team also won the ACC championship, one of the toughest conferences in the country.

The members of the 2004 University of Virginia's Women's Lacrosse team have indeed made Mr. Jefferson's University proud and should be applauded for their character and leadership, both on and off the playing field. I congratu-

late Amy Appelt, Caitlin Banks, Bridget Bradley, Kate Breslin, Laura Burns, Cary Chasney, Kim Connors, Ashley Dodson, Ashleigh Haas, Julie Hauser, Megan Havrilla, Carol Hotarek, Lauren Keller, Meredith Lazarus, Tyler Leachman, Nikki Leib, Chelsea Metz, Ginger Miles, Jessy Morgan, Erin Nagle, Andrea Pfeiffer, Elizabeth Pinney, Kaitlin Swagart, Erin Sweeney, Morgan Thalenberg, Molly Urlock, Jess Wasilewski, and Courtney Young.

Mr. President, I hope my colleagues will join with Senator WARNER and me to pass this resolution recognizing the National Champion University of Virginia Women's Lacrosse team.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 368) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 368

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in the University of Virginia Cavaliers National Champion women's lacrosse team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Princeton Tigers, the Cavaliers raced out to a 5 to 1 halftime lead on the strength of 8 saves by tournament Most Valuable Player Andrea Pfeiffer and 2 goals and an assist from Tyler Leachman;

Whereas the Cavaliers won the 2004 NCAA Division I women's lacrosse National Championship with an outstanding second half performance, scoring 5 goals to the Princeton Tigers' 3 goals to win by a score of 10 to 4;

Whereas the Cavaliers added the NCAA women's lacrosse title to their Atlantic Coast Conference (ACC) title to claim their second championship in 2004;

Whereas every player on the Cavalier women's lacrosse team—Amy Appelt, Caitlin Banks, Bridget Bradley, Kate Breslin, Laura Burns, Cary Chasney, Kim Connors, Ashley Dodson, Ashleigh Haas, Julie Hauser, Megan Havrilla, Carol Hotarek, Lauren Keller, Meredith Lazarus, Tyler Leachman, Nikki Leib, Chelsea Metz, Ginger Miles, Jessy Morgan, Erin Nagle, Andrea Pfeiffer, Elizabeth Pinney, Kaitlin Swagart, Erin Sweeney, Morgan Thalenberg, Molly Urlock, Jess Wasilewski, and Courtney Young—contributed to the team's success in this impressive championship season;

Whereas the Cavaliers women's lacrosse team Head Coach Julie Myers has won more than 100 games and has taken her teams to the NCAA title game 4 times, a feat only accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers's 8 consecutive invitations to the NCAA lacrosse tournament has only been accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers entered this season, her ninth year at the University of Virginia,

as Head Coach with 2 NCAA women's lacrosse titles—1 as a player (1991) and 1 as an assistant coach (1993);

Whereas Julie Myers is the third person in NCAA women's lacrosse history to win a title as both a player and a coach, and is the first person to play for the championship both as a player and as a head coach; and

Whereas assistant coaches Heather Dow, Kateri Linville, and Colleen Shearer deserve high commendation for their strong leadership of, and superb coaching support to, the University of Virginia Cavaliers women's lacrosse team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion University of Virginia Cavaliers women's lacrosse team.

UNANIMOUS CONSENT AGREEMENT—S. 2400

Mr. McCONNELL. Mr. President, I ask unanimous consent the agreement reached earlier today limiting amendments to the Department of Defense authorization bill be modified so that all second-degree amendments must be relevant to the amendment to which they are offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JUNE 2, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. tomorrow, Wednesday, June 2. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then begin a period of morning business for up to 60 minutes, with the Democratic leader or his designee in control of the first 30 minutes, and the majority leader or his designee in control of the final 30 minutes; provided that following morning business, the Senate resume consideration of calendar No. 503, S. 2400, the Department of Defense authorization bill.

I further ask consent that the Senate recess from 12:30 to 2:15 for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Tomorrow, following morning business, the Senate will resume consideration of the DOD authorization bill.

Earlier today we were able to lock in a final list of first-degree amendments

to the bill. While this will help Senators WARNER and LEVIN begin working on a schedule for the consideration of amendments, I was disappointed the list included, unfortunately, 200 possible amendments. I encourage Senators on both sides of the aisle to show restraint in offering amendments. Nothing requires all 200 of those amendments, in fact, be offered. With everyone's cooperation, we should be able to finish this bill this week.

With that being said, the chairman and ranking member will be here tomorrow working through those amendments. We do expect rollcall votes throughout the day tomorrow in relation to these amendments and Senators will be notified when the first vote is scheduled.

Mr. REID. Mr. President, if my distinguished colleague will yield for me to comment.

Mr. McCONNELL. I yield.

Mr. REID. Mr. President, we are so grateful we are now moving to the Defense bill, getting off the cloture vote. This was a good move. We appreciate that very much.

Realistically, we have about 140 amendments. The majority has over 90 amendments. That is a lot of amendments. Many of the amendments, as we know, will not be offered. There are a large number of irrelevant amendments which are just a "holder" in case something comes up that is not anticipated. However, we still have scores of amendments that people will offer. A number of these amendments, the managers will work through and we will be able to dispose of one way or the other.

However, we are not going to finish the bill Thursday. There is an important trip Members are taking to commemorate the anniversary of the Normandy invasion and a number of Senators will be leaving for that sometime Thursday evening, I understand.

I further note we will not be able to work on this bill Friday. That is my understanding, at least. Certainly there will not be any votes.

We want to work to finish this bill. As I mentioned earlier today, there is not anything we can be more importantly engaged in than working on this Defense bill. Yesterday, five soldiers were killed. We have averaged two deaths a day for the last 2 months. We are approaching 5,000 of our military personnel who have been injured, many of those grievously injured.

We are going to be as cooperative as we can. This is a bill we want as much as the majority. That is why we raised this issue a week ago last Friday and did not want to move off the Defense bill to go to the important class action legislation.

This may be our only opportunity to talk about this issue this year. I hope people are not thinking we were not cooperating. We cannot finish it in 2 days. It is impossible, legislatively impossible. We should get off that and understand that.

Mr. McCONNELL. Mr. President, the assistant Democratic leader has indicated we have had some casualties this week. It is also important to point out this is the smallest number of casualties of any major war in the history of the United States by far.

We just had an opportunity this past weekend to open the World War II Memorial and remember the over 400,000 Americans who were lost in that great conflict. It is impossible to fight the war on terrorism with no casualties. We regret every single death and every single injury, but given the enormous task, we have already completed liberating over 50 million people in the last 2½ years. It has been done in an extraordinarily effective way with minimum loss of life on our side. We all agree our military forces are quite extraordinary in the task they are undertaking.

Speaking of World War II, in addition, tomorrow at 5 p.m., there will be a reception honoring Senators AKAKA, HOLLINGS, LAUTENBERG, INOUE, STEVENS, and WARNER, all of whom served in World War II. We will devote the hour prior to the reception to speeches in the Senate honoring their service.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:37 p.m., adjourned until Wednesday, June 2, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 1, 2004:

DEPARTMENT OF DEFENSE

PETER CYRIL WYCHE FLORY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE JACK DYER CROUCH, II.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CARIN M. BARTH, OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VICE ANGELA ANTONELLI.

DEPARTMENT OF LABOR

VERONICA VARGAS STIDVENT, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE CHRIS SPEAR, RESIGNED.

DEPARTMENT OF EDUCATION

JOHN H. HAGER, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION, VICE ROBERT PASTERNAK.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HERMAN BELZ, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE LINDA LEE AAKER, TERM EXPIRED.

TAMAR JACOBY, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE PEDRO G. CASTILLO, TERM EXPIRED.

CRAIG HAFNER, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE MICHAEL PACK, TERM EXPIRED.

JAMES DAVIDSON HUNTER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE EDWARD L. AYERS, TERM EXPIRED.

HARVEY KLEHR, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A

TERM EXPIRING JANUARY 26, 2010, VICE THEODORE WILLIAM STRIGGLES, TERM EXPIRED.

THOMAS K. LINDSAY, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE IRA BERLIN, TERM EXPIRED.

IRIS LOVE, OF VERMONT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE EVELYN EDSON, TERM EXPIRED.

THOMAS MALLON, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010. (REAPPOINTMENT)

RICARDO QUINONES, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE AMY APFEL KASS, TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROBERT CRAMER BALFE III, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS, VICE THOMAS C. GEAN, RESIGNED.

DAVID E. NAHMIA, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE WILLIAM S. DUFFEY, JR.

WILLIAM SANCHEZ, OF FLORIDA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF FOUR YEARS, VICE JUAN CARLOS BENITEZ, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. KEVIN C. KILEY, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JOSEPH P. COSTELLO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RALPH W. COREY III, 0000
KIRK A. FOSTER, 0000
WALTER M. FREDERICK, 0000
DAVID E. GROGAN, 0000
JEFFREY S. HORWITZ, 0000
JON E. NELSON, 0000
KENNETH J. OROURKE, 0000
JOHN K. WAITS, 0000
EDWARD S. WHITE, 0000

CONFIRMATION

Executive nomination confirmed by
the Senate June 1, 2004:

THE JUDICIARY

F. DENNIS SAYLOR IV, OF MASSACHUSETTS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS